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**PREVENTION OF DISCRIMINATION AND PROTECTION OF
INDIGENOUS PEOPLES AND MINORITIES**

Report of the Working Group on Minorities on its seventh session

(Geneva, 14-18 May 2001)

Chairperson-Rapporteur: Mr. Asbjørn Eide

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Introduction

1. The establishment of the Working Group on Minorities was recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 1994/4 of 19 August 1994, authorized by the Commission on Human Rights in its resolution 1995/24 of 3 March 1995, and endorsed by the Economic and Social Council in its resolution 1995/31 of 25 July 1995. By decision 1998/246 of 30 July 1998, the Economic and Social Council extended the mandate of the Working Group with a view to its holding one session of five working days annually.

2. In compliance with the above-mentioned resolutions, the Working Group at its seventh session held nine public meetings and one private meeting from 14 to 18 May 2001.

I. ORGANIZATION OF THE SESSION

A. Attendance

3. The session was attended by the following independent experts of the Sub-Commission: José Bengoa, Asbjørn Eide (Chairperson-Rapporteur), Vladimir Kartashkin, Soli Sorabjee and Y.K. Yeung Sik Yuen.

4. The following States Members of the United Nations were represented by observers: Albania, Armenia, Azerbaijan, Bahrain, Bhutan, Bosnia and Herzegovina, Brazil, China, Croatia, Czech Republic, Cyprus, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Japan, Jordan, Latvia, Mauritania, Netherlands, Norway, Pakistan, Philippines, Poland, Romania, Russian Federation, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam and Yugoslavia.

5. The following non-member States were represented by observers: Holy See, Switzerland.

6. The following United Nations bodies and specialized agencies and intergovernmental organizations were represented at the session: International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), Office of the United Nations High Commissioner for Refugees (UNHCR), Sub-Commission on the Promotion and Protection of Human Rights, African Commission on Human and Peoples' Rights, Council of Europe, European Commission, Office of the High Commissioner for National Minorities of the Organization for Security and Co-operation in Europe and the Organization of the Islamic Conference, Inter-Parliamentary Union.

7. The following national institutions were represented at the session: The Hungarian Parliamentary Commissioner for National and Ethnic Minorities and the adviser to the Parliamentary Commissioner.

8. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers: All For Reparations and Emancipation, Baha'i International Community, December Twelfth Movement International Secretariat, Federal Union of European Nationalities, Indian Movement "Tupaj Amaru", International Centre for Ethnic Studies, International Federation of Human Rights Leagues, International Human Rights Law Group, International Movement against All Forms of Discrimination and Racism, International Service for Human Rights, Minority Rights Group International and World Muslim Congress.

9. The following other non-governmental organizations were represented by observers: Alianza de Afrodescendientes de las Americas y el Caribe, Alliance of Papuan Students (AMP), AFROAMERICA XXI, Asociación Proyecto Caribe, Basque League for the Rights and Liberation of Peoples, Bhutan Women and Children's Organization, Centro de Articulações de Populações Marginalizadas (CEAP), Centro de Desarrollo de la Mujer Negra Peruana (CEDEMUNEP), Consejo Gitano, Cultura de Solidaridad Afroindígena, Dalit Liberation Education Trust, Danish Centre for Human Rights, Council of Social Organizations in favour of the Basque Language, Espacio Afroamericano, Fala Preta Organização de Mulheres Negras, Foundation for Support and Research of Indigenous People in Crimea, Geledés-Instituto da Mulher Negra, Greek Helsinki Monitor, HEARDS - India, Indigenous Information Network, Inter-Ethnic Initiative for Human Rights Foundation, Karen National Union, Kurdish Reconstruction Organization, Liga Pro Europa, Mécs László Association, Minority Rights Movement of San Andrés, Providence and Catalina Islands (Colombia), Movement for the Survival of the Ogoni People (MOSOP), Mundo Afro National Coalition for Haitian Rights (NCHR), National Commission for Reparations, National Movement for the Human Rights of the Afro-Colombian Peoples (CIMARRON), National Sorry Day Committee, Nepal Indigenous Peoples Development and Information Service Centre (NIPDISC), Niger Women's Coalition Against War (CFNCC), Organización de Desarrollo Étnico Comunitario (ODECO), Organisation guinéenne de défense des droits de l'homme (OGDH), Organización Mundo Afro, Papua Council, Proceso de Comunidades Negras, Red Regional de Mujeres Afro Caribenas y Afro Latino Americanas, Rom-Star Organisation, Roma Association of Izmail and Region, Rroma Centre of Public Policies "Aven Amentza", SATRA/ASTRA - Rroma Students and Youth Against Racism Alliance, Sikh Human Rights Group, Slovak Helsinki Committee, South Asia Forum for Human Rights, South India Cell for Human Rights Education and Monitoring (SICHREM), Sudanese Women's Voice for Peace, Teesri Duniya Adhyan Kendra, The Koteka Peoples' Association for Rights, Peace and Justice, Third World Study Centre, Unissons-nous pour la promotion des Batwa (UNIPROBA), Word Centre for Human Rights, Working Group of Indigenous Minorities in Southern Africa (WIMSA).

10. The following scholars participated in the meetings of the Working Group: Anette Andresen (Norwegian Institute of Human Rights), Girmachew Alemu Aneme (Norwegian Institute of Human Rights), Kimberly Catherine Courtade (Illinois State University), Gyula Csurgai (School for International Training), Bram Elias (Queen's University, Belfast), Geoff Gilbert (University of Essex), Marie-Hélène Giroux (University of Montreal), Solomon Mebrie Gofie (Norwegian Institute of Human Rights), Peter Görög (Graduate Institute of International Studies, Geneva), François Grin (European Centre for Minority Issues), Tom Hadden (Queen's University, Belfast), Lauri Hannikainen (University of Lapland), Hurst Hannum (Tufts University), Amina Joyce Lwasye (Norwegian Institute of Human Rights),

Maria Lundberg (Norwegian Institute of Human Rights), Ciarán Ó Maoláin (Queen's University, Belfast), Mudzakir Mudzakir (Norwegian Institute of Human Rights), Pal Nesse (Norwegian Institute of Human Rights), Manon Olsthoorn (expert), Christoph Pan (Südtiroler Volksgruppen - Institut (SVI), Tim Potier (Intercollege Nicosia), Aanja Riiser (Norwegian Institute of Human Rights), Palmira Rios Gonzales (Universidad de Puerto Rico), Ingrid Roy (University of Ottawa), Ranabir Samaddar (South East Asia Forum for Human Rights), Geraldine Scullion (Queen's University, Belfast), Thomas Simon (Illinois State University), Zelim Skurbaty (Danish Centre for Human Rights), Samia Slimane (expert), Lisa Stearns (Norwegian Institute of Human Rights), Gebremlak G. Tekle (Norwegian Institute of Human Rights), Jeevan Thiagarajar (International Centre for Ethnic Studies, Colombo), Pal Vigmostad (Norwegian Institute of Human Rights), Niamh Walsh (Irish Centre of Human Rights), Matthias Wilding (Norwegian Institute of Human Rights), Azhari Yahya (Norwegian Institute of Human Rights), Chuanyi Zhang (Norwegian Institute of Human Rights) and Yong Zhou (Norwegian Institute of Human Rights).

B. Documentation

11. The documents before the Working Group are listed in the annex. All the working papers submitted are available from the secretariat or are to be found at <http://www.unhchr.ch>.

C. Organization of work

12. At its first meeting, on 14 May 2001, the Working Group, in accordance with its mandate, adopted the following agenda:

1. Adoption of the agenda.
2. Organization of work.
3.
 - (a) Reviewing the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;
 - (b) Examining possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;
 - (c) Recommending further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.
4. The future role of the Working Group.
5. Other matters.

13. Stefanie Grant, Chief of the Research and Right to Development Branch Office of the High Commissioner for Human Rights (OHCHR), made an opening statement, in which she provided an update of activities undertaken in light of the decisions adopted by the Working Group at its session in 2000.

14. The Chairperson-Rapporteur also reviewed the work undertaken since the last session and made mention of the seminar held in January 2001 in Kidal, Mali, on multiculturalism in Africa. He spoke of the increasing recognition of the multicultural composition of nearly all States in the world and of the need to approach the issues relating to multiculturalism from the perspective of the need to protect the rich diversity of cultures in the world, rather than regarding them as a source of tension. The Chairperson-Rapporteur provided participants with suggestions for the organization of discussions, during the session, given the fullness of the agenda.

II. REVIEWING THE PROMOTION AND PRACTICAL REALIZATION OF THE DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

15. Under this agenda item, the Chairperson-Rapporteur, Mr. Eide, presented his paper containing the final Commentary to the Declaration (E/CN.4/Sub.2/AC.5/2001/2). Other matters covered included the questions of a future publication on procedures for the better protection of the rights of minorities and of future Web pages and a database on minority issues. Additionally, information, particularly from non-governmental organizations and minority representatives, was provided on the application of the provisions of the Declaration, at the national level.

A. Commentary to the Declaration

16. Mr. Eide informed participants that his final commentary to the Declaration was based on earlier drafts, comments made in writing and orally at previous sessions of the Working Group and observations made at last year's meetings.

17. Mr. Kartashkin raised the possibility of adding additional elements to the Commentary. These could take the form of comments, guidelines or principles, which could be formulated as part of the outcome of thematic discussions. This suggestion was warmly welcomed by the Chairperson-Rapporteur.

18. Mr. Sorabjee agreed with the approach taken in the Commentary, which stressed that positive action and measures are required by States to protect and promote minority rights. He also drew attention to the point brought out in the Commentary that the violation of minority rights could occur at the hands of non-State actors and that the obligation lay with States to prevent such violations. He appealed to the Working Group to make clear the meaning of the exception clause provided for under article 4.2 of the Declaration, which reads "except where specific practices are in violation of national law and contrary to international standards". He indicated that if national law contained provisions that were repressive of human rights, and in particular minority rights, the rights guaranteed by article 4.2 would be illusory. A proper interpretation of the provision required that national legislative measures conform to international human rights standards. Mr. Sorabjee also stated that rights needed remedies and

suggested that efforts should be taken to develop an effective complaint mechanism that would give meaningful redress to the victims of violations of the rights guaranteed by the Declaration.

19. The importance of ensuring an effective remedy for the promotion and protection of the rights of minorities, particularly the Roma, was an issue also addressed by Mr. Sik Yuen. He stated that an effective remedy should not simply mean having recourse to international procedures and systems, once local and domestic remedies were exhausted. Often for a remedy to be provided, it was absolutely necessary for the perpetrator to be identified, but in instances of violations suffered by the Roma and other minorities it was often difficult to identify the perpetrators of the act. With a view to addressing this lacuna, the speaker argued that there were juridical and other grounds for establishing a "strict no-fault liability" so that victims of human rights violations could be entitled to indemnity without the wrongdoer being identified; in the event that the perpetrators were eventually found, the State could then pursue them for refund or repayment. The proposal was to have been included in a study on the Roma proposed by the Sub-Commission. To facilitate future study and work on the Roma, he appealed to participants to provide jurisprudence, i.e. highest-level court decisions and information on national legislation with respect to the protection of the rights of the Roma.

B. Future publication on minorities

20. Mr. Hannum gave a brief overview of a project, of which he was coordinator, to develop a practical guide for use by members of minorities and organizations in promoting their rights in the United Nations and regional human rights systems. The publication would consist of loose-leaf pamphlets and cover the protection and promotion of minority rights as developed by the Working Group and as contained in the six major United Nations human rights treaties; the Charter-based mechanisms; mechanisms of the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization, and the United Nations High Commissioner for Refugees; and regional human rights mechanisms, namely the European, African and Inter-American human rights systems. Mr. Hannum expressed his gratitude to those who had contributed to the various sections of the manual.

C. Future Web pages and database on minorities

21. Following the request of the Working Group at its sixth session that progress should be made with respect to the database on minorities, OHCHR had asked two consultants from the firm "I-Connect" to formulate proposals for developing a strategy on electronic information publishing for minority rights. Paula Uimonen, one of the consultants, gave a presentation, which was followed by a discussion. She presented the proposed structure of the Web site and laid out the future strategy to promote it, including links with the Web sites of related organizations, registration with search engines, and mentioning of the site in OHCHR publications and communications. Her strategy also included plans to set up a database on minority issues. She stressed that the Web site should have an interactive element. In this regard, she suggested that an on-line forum for data input be set up, together with a mailing list which would open up the possibility of updating the contents of the site. The site could also provide a search function for possible partner sites and search facilities targeting the United Nations as a whole. Finally, she acknowledged that while the site should ideally be available in all United Nations languages, that would require considerable resources.

22. A number of non-governmental organizations expressed concern regarding the security of information contained in a future database. There were fears that information on specific minority issues could be used by Governments to target minorities in their countries. Ms. Uimonen explained that only public information would be available on the Web site but acknowledged that access to any future database would have to be carefully considered.

23. Another concern raised was the lack of access to the Internet by minorities, especially those living in developing countries. Ms. Uimonen replied that while most non-governmental organizations had access to the Internet, information should also be disseminated by traditional means, e.g. in printed form. In relation to the issue of the availability of the Web site in different languages, Mr. Eide suggested that minority organizations might wish to become involved in the translation of the OHCHR Web site into different languages and provide for such access on their own sites.

24. It was suggested that a compilation of relevant national laws should be added to the OHCHR Web site. The observer for the Greek Helsinki Monitor indicated that such a compilation existed with regard to Central Eastern Europe on the Web site of the Centre for Documentation and Information on Minorities in Europe (CEDIME). Mr. Grin of the European Centre for Minority Issues and the observer for the Greek Helsinki Monitor expressed their interest in contributing to the proposals of the Working Group on ensuring the availability of electronic information on minority issues. They indicated that information was already available on the Web sites of organizations such as their own, which had formed an electronic network called the Consortium of Minority Resources (COMIR).

25. Finally, with regard to questions raised as to the absence of hyperlinks to certain of the Web sites listed on the proposed OHCHR minorities' Web pages, Ms. Uimonen explained that it was the policy of the United Nations to provide hyperlinks only to other intergovernmental sites.

D. Developments at the national level

1. Constitutional and legal provisions as well as other general measures protecting the existence and identity of minorities (art. 1 of the Declaration)

26. The observer for the Greek Helsinki Monitor noted that a number of States had not recognized the existence of minorities on the basis of the concept of indivisibility of the State (France and Turkey), while other States only recognized certain minorities (Albania, Bulgaria, Greece, Slovenia, the former Yugoslav Republic of Macedonia). The observer for Albania explained that Albania did not recognize the existence of a Greek minority in the Himara region as that particular region was not a minority zone and few Greeks lived there. The observer for Greece contended that her Government did not deny the application of the principle of self-identification to persons belonging to the Muslim minority; every member of that minority was free to declare his/her ethnic origin (be it Turkish, Pomak or Roma), to speak and learn his/her language and practise his/her own religion, customs and traditions. Attempts to identify the entire Muslim minority of Thrace as "Turkish" were contrary to the Treaty of Lausanne. She also stated that there were no sufficient grounds for regarding the small number of people that spoke a Slavic tongue in the north of Greece ("Macedonians") as a national minority.

27. The observer for the International Movement Against All Forms of Discrimination and Racism (IMADR) questioned the practice of registering Sinti and Roma in special police files in Bavaria, Germany, which was said to put many members of the German Sinti and Roma minority in a position where it was better to deny their affiliation with the group.

28. The observer for the Working Group on Indigenous Minorities in Southern Africa (WIMSA) stated that the plans of the Government of Namibia to resettle 20,000 refugees in M'kata, Tsumkwe District, where 4,000 San people lived, was threatening the latter's existence. A similar case was presented by the observer for the Bhutan Women and Children Association regarding the resettlement of groups from the north of the country on territory left previously occupied by the Lhotshampa people, who were currently refugees in Nepal.

29. The lack of legal recognition of minorities was also mentioned by the observers for the Asociación Proyecto Caribe (Costa Rica), the Alliance of Papuan Students (Indonesia), the Nepal Indigenous Peoples Development and Information Service Centre (on behalf of the Kirati Peoples of Nepal) and All for Reparations and Emancipation (African Americans in the United States). The absence of State measures to protect and promote the existence and identity of minorities was further mentioned by the observers for the Movement for the Survival of the Ogoni People (MOSOP) (Nigeria), the Indigenous Information Network and All for Reparations and Emancipation (descendants of Africans in the Americas in general and the United States in particular).

2. The right of persons belonging to minorities to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination (art. 2.1)

30. The observer for the Bhutan Women and Children Association alleged persistent discrimination against and persecution of Christians in Bhutan. The observer for Bhutan denied the allegation and stressed that freedom of religion was enshrined in the laws of Bhutan and that everyone was allowed to practise and profess the religion of their choice. In order to prevent tensions, however, proselytization was not permitted.

31. The observer for the Nepal Indigenous Peoples Development and Information Service Centre stated that the Kirati peoples were denied the expression of their cultural identity and that Hindu culture, language and religious practices were being imposed on them.

32. The observer for the Sudanese Women's Voice for Peace discussed the detrimental effects of the war on the people in the Nuba Mountains, Blue Nile and southern regions of the Sudan.

33. Observers for the Kurdish Reconstruction Organisation stated that the Government of Iraq was responsible for the "Arabization", mass expulsion and genocide of the Kurds in Iraqi Kurdistan. The observer for Iraq replied that Iraqi Kurdistan enjoyed a large degree of autonomy compared to the situation in other countries. Special measures were in place for Turkomans, Assyrians and Kurds. He stated that all violence in the region was a result of in-fighting among

the Kurdish militia and stressed the need to recognize that minorities also had responsibilities towards the State. He also stated that the United States had prohibited a dialogue between the Kurds and the Government.

3. Effective participation of persons belonging to minorities in cultural, religious, social, economic and public life (art. 2.2); and the right of persons belonging to minorities to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation (art. 2.3)

34. The observer for the Mécs László Association expressed concern that the territorial reorganization carried out in 1996 in Slovakia resulted in the marginalization of the Hungarian community in the public administration. The observer for Slovakia stressed that the administrative-territorial division reform was one of the highest priorities of the Government. He underlined that economic and social development and decentralization were key issues in the reform. He also stated that the representatives of the Hungarian minority were directly involved in all decisions that concerned them.

35. The observer for the Islamic Republic of Iran spoke about the efforts undertaken in his country to ensure the participation of minorities in national decision-making through legal and constitutional guarantees, particularly in the National Assembly.

36. The observer for the Foundation for Research and Support of Indigenous Peoples of Crimea stated that the Crimean Tatar people were severely underrepresented in the Ukrainian Parliament as well as the Crimean Parliament and that they had been excluded from the land restitution process.

37. The observer for the Russian Federation made mention of forums for dialogue, such as the Council on Interaction with Religious Minorities, that had been set up in Russia with a view to ensuring the participation of minorities. He also informed the Working Group that Russia had become party to the European Framework Convention on National Minorities.

38. The observer for MOSOP stated that the Ogoni people were excluded from decisions that concerned them, were underrepresented in State institutions, particularly the senate, and that any measure of control over their land and resources had been denied.

39. The observer for Unissons-nous pour la promotion des Batwa (UNIPROBA), speaking on behalf of the Batwa people of Burundi, explained that their participation in the social, economic and political spheres was minimal, and alleged that the Arusha Accords had not taken account of them, thus denying them the right to enter the army. He underlined that the accommodation of larger minorities could result in the violation of the rights of smaller minorities. The importance of this point was also raised by the observer for the Russian Federation.

40. The exclusion of "Afro-descendants" in the Americas from economic, social and political life was the focus of statements made by the observers for the Alianza de Afrodescendientes de

las Americas y el Caribe (particularly on the situation in Uruguay), the Organización de Desarrollo Étnico Comunitario (ODECO), the Organización Negra Centroamericana, the Espacio Afroamericano and Proceso de Comunidades Negras (regarding the conflict situation in Colombia), and the Minority Rights Movements of San Andrés, Providence and Catalina Islands (Colombia). Several of these NGOs stressed the relevance of a certain degree of control over community land to the Afro-descendants.

41. Observers for the Consejo Gitano, SATRA/ASTRA - Roma Students and Youth Against Racism Alliance and the Inter-Ethnic Initiative for Human Rights Foundation all stressed the lack of participation of the Roma people in all fields. The observer for Finland referred to the suggestion of her country's President, Ms. Tarja Halonen, to create a pan-European Forum for Roma, which could act as a kind of consultative assembly where the Roma could make their views known to political decision-makers on both the regional and national levels.

4. The right of persons belonging to minorities to establish and maintain their own associations (art. 2.4)

42. The observers for the Papua Council and the Alliance of Papuan Students (AMP) stated that the Government of Indonesia had refused to approve the Papua Presidium Council as a legitimate forum for the "West-Papuans" as a people and "West Papua" as a territory. Peaceful efforts towards self-identification, freedom of association and self-government had been answered by military and police repression.

5. The right of persons belonging to minorities to exercise rights, including those set forth in the Declaration, individually as well as in community with others, without any discrimination (art. 3.1)

43. The representative of the Inter-Ethnic Initiative for Human Rights Foundation stated that the denial of social and economic rights of the Roma in Bulgaria was a violation of the non-discrimination principle. The representative of the Lega Pro Europa stated that the expulsion policies carried out against the Roma population of Tirgu-Mures in Romania were a violation of article 3.1 of the Declaration. The observer for Romania stated that he would take the matter up with the authorities and that he hoped a legal investigation would shed light on the events.

44. The observers for Espacio Afroamericano and Proceso de Comunidades Negras stated that one third of the internally displaced in Colombia were Afro-descendants. Together with other minority groups such as the indigenous peoples, they had also been the targets of massacres.

45. The observer for the Organisation guinéenne de défense des droits de l'homme (OGDH) discussed the issue of discrimination on the basis of caste in his country. Marriage between different castes was not allowed, and a person belonging to a particular caste had to practise a particular profession.

6. Measures by States to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without discrimination and in full equality before the law (art. 4.1) and to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs (art. 4.2)

46. The observer for MOSOP argued that the State should be responsible for protecting minorities from violations by private companies.

47. The observer for the South India Cell for Human Rights Education and Monitoring (SICHREM) expressed concern that the Dalits in India were discriminated against as a minority religion. The observer for India stated that the question of the Dalits in India was not strictly a minority problem and agreed that the issue was complex. He recognized that the State had a huge role to play in addressing such issues and described several of the special measures in place. In particular, the Constitution of India contained specific provisions for affirmative action for those who historically had suffered discrimination.

48. The lack of affirmative action was mentioned by the observer for the Asociación Proyecto Caribe (Costa Rica), the Papua Council and AMP (Indonesia), and the Indigenous Information Network (with regard to the lack of appropriate provision of health services for the pastoral minorities of Kenya).

49. The observer for the Word Centre for Human Rights, speaking on behalf of the Coptic minority in Egypt, stated that a number of Egyptian laws contained discriminatory provisions. Most pertinent were the establishment of Islam as the State religion in article 2 of the Constitution, the application of sharia to other religious groups and the limitations on the building and repair of churches. The observer for Egypt stated that the Copts were not a religious minority in Egypt and were viewed as an integral part of the State. No discriminatory laws or practices towards religions existed in Egypt.

7. Measures by States to provide persons belonging to minorities with adequate opportunities to learn their mother tongue and have instruction in their mother tongue (art. 4.3) and to be taught their history and culture (art. 4.4)

50. The observers for several NGOs dealing with Roma issues (Consejo Gitano, Roma Association of Izmail and Region, SATRA/ASTRA) mentioned the lack of implementation of article 4.4 in countries such as Spain, Romania, and Ukraine. They emphasized in particular the need to use the education system to create public awareness about and promote tolerance towards the Roma people. They also pointed to the importance of article 4.4 in combination with article 4.3 in the process of identity assertion and self-esteem-building for the Roma people themselves. This point was also stressed by the observers for the Asociación Proyecto Caribe in relation to the situation of Afro-descendants in Costa Rica.

51. The observer for the Alianza de Afrodescendientes de las Américas y el Caribe noted improvements in the multicultural education policies of the Government of Uruguay. However,

with regard to the general situation of Afro-descendants in Latin America, a number of NGOs dealing with this issue deplored the lack of bilingual and intercultural education.

52. The observer for the Mécs László Association welcomed several positive developments in the area of education in Slovakia, although the question of training and education of Hungarian teachers needed further attention. The observer for Slovakia noted other positive developments such as the conclusion of the Slovak-Hungarian Cultural Treaty which dealt with minority culture in both countries.

53. The observer for the Bhutan Women and Children Association said that the requirement to present a "No Objection Certificate" from the police in order to enter the education system was in violation of article 4.4 as Lhotsampa had great difficulty obtaining this certificate. She also stated that the Nepali language was banned in Bhutan. The observer for Bhutan stated that, on the contrary, Nepali was one of the two official languages used in the Bhutanese parliament and commonly used in the media.

54. The observer for the Karen National Union discussed the suppression of the Karen language in Myanmar and said that no education in the Karen language was available.

8. Appropriate measures by States for the full participation of minorities in the economic progress and development of their country (art. 4.5)

55. The observer for the Consejo Gitano expressed discontent regarding the regulation by the Government of Spain of traditional street vendors (*venta ambulante*).

56. The denial of equal employment opportunities to minorities was mentioned by the observers for the Bhutan Women and Children Association and the Alianza de Afrodescendientes de las Americas y el Caribe,

57. The observer for MOSOP stated that the State failed to guarantee them a role in decisions that concerned environmental matters in their areas, thereby depriving them of the right to participate in economic development.

9. National policies and programmes as well as programmes of cooperation and assistance among States planned and implemented with due regard for the legitimate interests of persons belonging to minorities (art. 5)

58. Many NGO observers deplored the lack of implementation of government programmes. While the Framework Programme for Equal Integration of Roma in Bulgarian Society was viewed as a positive development, its lack of implementation was regretted (Inter-Ethnic Initiative for Human Rights Foundation). Similarly, the Council of Representatives of Crimean Tartar People was decreed and adopted into law, but not implemented (Foundation for Research and Support of Indigenous Peoples of Crimea).

59. Both SATRA/ASTRA and the Liga Pro Europa welcomed the Strategy for Improving the Conditions of the Roma in Romania, but deplored the absence of an institutional framework to implement the programme. The observer for Romania suggested that the guiding principles of

the Strategy might serve as a "best practice" for other similar initiatives and also indicated that institutions were in place to implement the programme at State and local levels

60. The observer for the Asociación Proyecto Caribe deplored the lack of government policies to ensure equity for and social integration of the black population of Costa Rica. The observer for the Bhutan Women and Children Association stated that government policies did not reflect the interests of minorities.

61. The observer for the Islamic Republic of Iran mentioned the different cultural programmes launched by the Government aimed at promoting understanding among minorities and between minorities and the Government. He also made reference to the establishment of a national committee for the promotion of the rights of religious minorities.

62. The observer for Latvia gave a brief overview of the programme "Integration of society in Latvia" which had three principal objectives: to increase political integration and civic participation, to provide for social and regional integration and to strengthen the Latvian language whilst continuing to implement minority education programmes.

63. The observer for Finland discussed the situation of the Saami in his country. He mentioned the degree of cultural autonomy accorded to them within the Saami Homeland, and acknowledged that the issue of land rights in northern Lapland remained unresolved. A rapporteur had been appointed to submit a report on the issue, and the Ministry of Justice had created a committee to examine further the established right to use traditional land.

64. The observer for China discussed his Government's strategy regarding the minorities of the mid-western region of China. Several different measures were mentioned. First, the law on regional autonomy had been amended with a view to speeding up the process of self-management. Second, there would be increased investment in infrastructure, industry and transport. Third, cultural development would be promoted and last, efforts to improve the ecological environment would be stepped up.

III. EXAMINING POSSIBLE SOLUTIONS TO PROBLEMS INVOLVING MINORITIES, INCLUDING THE PROMOTION OF MUTUAL UNDERSTANDING BETWEEN AND AMONG MINORITIES AND GOVERNMENTS

65. At its third meeting, the Working Group began its consideration of item 3 (b) of the agenda. The Chairperson-Rapporteur explained that the programme for that part of the agenda was structured in such a way as to allow for a general discussion on integrative and separatist approaches to minority issues to start with, and a focused debate on regional experiences afterwards. There were a number of working papers available to the Working Group, and Mr. Eide proposed that those dealing with the broad analytical framework be presented first, after which there could be a general discussion. Following this general debate, there would be an opportunity to hold separate discussions on the European, African, American and Asian-Pacific experiences.

1. General discussion on autonomy and integration

66. The first working paper (E/CN.4/AC.5/2001/WP.6 and the annex contained in E/CN.4/AC.5/2001/CRP.9) was presented by Tom Hadden and Ciarán Ó Maoláin. Mr. Hadden identified three approaches to dealing with minority claims. These he described as the autonomy, the integrative and the assimilationist approaches. The last was not one promoted by the United Nations. He noted that minorities were generally concentrated regionally, and in such cases were often in the majority; dispersed, such as the Roma people; or found in urban concentrations. He described a series of steps which in his view could be useful in accommodating minority interests. The first step, which was indispensable, was to recognize minorities. This involved participation in government, fair representation in public bodies and a fair share of economic development, including through autonomous arrangements. In this regard, the mere prohibition of discrimination was not sufficient; special and positive measures might be needed to protect the rights of minorities. The "Lund Recommendations" and the Flensburg principles on participation in public life were examples of measures which might be taken to accommodate the interests of different groups. Mr. Hadden drew attention to the need to consider a number of other aspects including the need to ensure fair representation of minorities within the law enforcement system and in the workplace. He spoke about the need for residential integration and the dangers of separating groups in different exclusive locations. As far as education and language were concerned, he noted the importance of preserving culture and linguistic diversity but insisted on the need to educate people in such a way as to be integrative and inclusive. His colleague, Mr. Ó Maoláin, introduced the annex to the working paper and explained that its contents were the product of an initial exercise to gather examples of legislation and other measures which recognized minorities and provided for the accommodation of different group rights. He and Mr. Hadden welcomed further information on legislative measures and their implementation in practice, so as to be able to provide additional examples of good practice.

67. Mr. Eide, in his capacity as a member of the Working Group, presented his paper on cultural autonomy and territorial democracy (E/CN.4/Sub.2/AC.5/2001/WP.4). He said that he would argue against "ethnocracy" and in favour of democracy. Ethnically based Governments could be exclusive, and there was a need to find ways of safeguarding minorities. He identified different types of autonomy and distinguished between cultural and territorial autonomy. He noted that cultural autonomy had an ethnic content and endeavoured to protect a culturally defined rather than a territorially defined group. This was effectively a right to self-rule or self-management. He recalled the obligation of States to prevent discrimination and said that sometimes there might be tension arising from the desire to accommodate minority concerns and the need to apply international principles such as equality before the law. He expressed the view that territorial decentralization, if implemented in an inclusive fashion, could provide solutions. He cited examples of different autonomy arrangements in his paper including that in Estonia. Finally, Mr. Eide spoke about the differences between minorities and indigenous peoples. He acknowledged the special importance to the latter of collective rights and control over lands as a means of preserving their identity. However, he warned against ethnic autonomy, which in practice could discriminate against other and smaller groups.

68. Mr. Gilbert presented his paper (E/CN.4/Sub.2/AC.5/2001/CRP.5) on whether a right to autonomy existed under international law. He noted that the right to autonomy was not

recognized in international law but that some national situations provided elements for a greater understanding of the concept and its application. He made reference to the right of self-determination of peoples and the decolonization context in which it had developed, as well as to the concept of "internal" self-determination or autonomy. He explained that his own paper had tried to identify three different elements in relation to autonomy, which he described as participatory, cultural and financial autonomy.

69. Mr. Potier presented his paper (E/CN.4/AC.5/2001/CRP.1). He said that while the right of self-determination of peoples was associated with decolonization there might now be a need to review the debate. He made a number of references to the new States that had emerged in the former Soviet Union and Eastern Europe. He also noted the increasingly indigenous content to the right of self-determination and the recognition now being given to indigenous peoples' rights over land. He underlined the need to ensure that autonomy was inclusive.

70. The Chairman welcomed the commentaries made by the academic experts and particularly their efforts to develop typologies and frameworks for the better understanding of the concept of autonomy and integration to ensure the inclusion of all groups in such arrangements.

71. Mr. Bengoa added his own observation in respect of autonomy in the Latin American region. He had attended a meeting in Mexico in December 2000 on precisely this topic. The question was now at the forefront of the political debate in the region. He noted that the discussion of autonomy was primarily being raised by indigenous peoples. Furthermore, it was far from being an academic debate since indigenous movements, in particular that of the Zapatistas, were attracting support from wider sectors of the population. In essence, these pacific movements were inspiring reflections on new ways of situating indigenous peoples within the State. Mr. Bengoa talked about the self-management of the Kuna people of Panama who had enjoyed a degree of autonomy since the 1920s, as well as more recent examples such as the recognition by the Government of Colombia of indigenous resguardos, or reserves. He also mentioned the autonomy accorded to the Atlantic Coastal region of Nicaragua and the involvement of communities there in economic and social development plans. He raised a question which he believed to be important for developing countries: How much was the demand for autonomy by communities arising out of neglect by the central authorities? In certain regions, indigenous communities were seeking autonomy in order to combat marginalization by the State and promote development. In conclusion, the expert said that he believed there might be differences between the demand for autonomy in developing and developed States. In the case of Latin America, for example, Mr. Bengoa suggested that the former Spanish municipality system did provide for a degree of local autonomy. Much emphasis was now being given to reforming such municipalities to adapt them to the needs of the community.

72. Mr. Kartashkin encouraged participants not to make unrealistic proposals in relation to autonomy rights. He underlined the political nature and complexity of the issue and drew examples from his region. He suggested that the Working Group might consider preparing a study of legitimate ways and means for minorities to promote their rights.

73. The observers for a number of NGOs made general comments about autonomy. Some stressed the need for action since minority rights were being violated in their regions. The observers for The Koteka Peoples' Association for Rights, Peace and Justice and MAP said that before the question of autonomy or self-government was discussed, a dialogue between Governments and minorities needed to be begun. The observer for the National Movement for the Human Rights of the Afro-Colombian Peoples - CIMARRON noted that the State was often viewed by communities as not interested in their situation. Thus, calls for autonomy by communities were motivated by a desire to have a more active political role and greater access to social and economic development. In such cases, autonomy could be seen as a form of partnership. The observer for the National Sorry Day Committee stated that the notion of autonomy was viewed differently by members of minorities and the majority. She spoke about the procedures that were necessary when discussions of autonomy took place. For example, research about autonomy arrangements should also be undertaken by the minority groups themselves. She considered that there were four important elements to be taken into account for the positive protection of minorities. They were: recognition, restoration, rights and reconciliation.

74. The observer for Switzerland noted that in his country autonomy was not considered as separatist but rather as integrative and designed to maintain the unity of the State. He argued that States should not view autonomy as leading to secession but as a means of recognizing diversity. At the level of the cantons, there was a degree of participatory, cultural, territorial and functional as well as financial autonomy since they had a tax-collection capacity.

75. Mr. Hannum expressed support for the debate on the question of autonomy within the Working Group. However, he said that autonomy should be seen as a means to an end and not an end in itself. It might be wrong to assume that all groups had a right to power. It would also be important to look at what minorities were seeking to achieve by advocating autonomy solutions. He noted the need to establish a balance between measures to protect ethnic identity and citizens' rights. It would not be helpful if autonomy arrangements led to new walls of separation.

76. The observer for Pakistan said that he appreciated the rich discussions in the Working Group from a personal perspective but noted the difficulty for Governments to give comprehensive responses to some of the detailed and lengthy papers made available. He said that the principle of self-determination should not be equated with secession. He also posed the question as to whether the process of decolonization had indeed finished. The principle had to be seen as part of an ongoing political process.

77. Mr. Rezag-Bara, Vice-President of the African Commission on Human and Peoples' Rights, welcomed the discussion on separatist and integrative approaches to minority issues. He said that it would be difficult to find a common solution for all the different kinds of situations in Africa. As far as he was concerned there was great danger in an ethnic approach. In his region, there were many hundreds of different ethnic groups and on several occasions violence had arisen because of ethnic rivalries. He urged the Working Group to focus on a multi-ethnic approach in which notions of shared rather than exclusive identities were stressed. He also recognized that there was a need to strengthen democratic institutions in order to ensure protection of minorities.

78. The Chairperson-Rapporteur expressed satisfaction with the general debate on autonomy. He welcomed the academic papers and recognized the usefulness of the analytical frameworks they provided. He underlined the principle behind the discussions, namely looking at ways of accommodating minority or group concerns while at the same time ensuring equality for all without discrimination. He felt that the notions of territorial and cultural autonomy were helpful and emphasized the importance of democracy and effective participation rather than ethnicity. Nonetheless, he recognized that there was a need to address the special concerns of indigenous peoples, for example in their special relationship to their lands. He summarized the various points made in connection with self-determination, noting that the principle was regulated in international law. He admitted that the term "internal" self-determination or autonomy was much more nebulous but it did reflect the right of a people to be self-governing through a democratic process. The Chairperson-Rapporteur also noted during the discussions that there were varying degrees of autonomy, including its territorial, cultural, financial and participatory aspects. Autonomy, he said, should not lead to the exclusion of other smaller minorities. He believed that autonomy should be seen as a means of facilitating integration and noted that assimilationist actions by States sometimes led to calls for secession by affected groups.

2. Regional focus of the discussion on autonomy and integration

(a) Africa

79. Ms. Slimane, an independent expert, introduced the working paper (E/CN.4/Sub.2/AC.5/2001/WP.2) that she had presented to the workshop on multiculturalism in Africa organized by the Working Group on Minorities and the Working Group on Indigenous Populations in Kidal, Mali, in January 2001. She praised the initiative behind the workshop and welcomed the opportunity the activity had provided for Africans to express their ideas on the concepts of indigenous peoples and minorities. She said that Africa was a treasure house of cultures and languages. However, instead of cultural diversity being seen as a source of riches it was occasionally the source of conflict. She noted that the African Charter of Human and Peoples' Rights recognized the principle of non-discrimination and that it also contained references to peoples. However, there was no definition of the term "peoples" and in general the Charter tended to equate peoples with States. Notwithstanding, the way in which the African Commission had dealt with some of the individual complaints suggested that there was a certain flexibility and recognition of ethnic identity and group rights within the Commission. She also referred to the Commission's recently established working group on indigenous people. The expert made reference to some of the constitutional and legislative provisions relating to minority and indigenous peoples' concerns; in particular, the Constitution of Cameroon provided for specific measures to protect indigenous peoples. In conclusion, she recommended that the Working Group continue its cooperation with the Working Group on Indigenous Populations and further deepen its understanding of the concepts of indigenous peoples and minorities in the Africa region. She also encouraged the Working Group to hold further such workshops and maintain the fruitful dialogue with NGOs. It would be desirable, she said, to involve African Governments in these processes. Finally, she invited OHCHR to strengthen its links with the African Commission.

80. Mr. Rezag-Bara welcomed the Working Group's interest in Africa. He admitted that the question of minorities was difficult and sensitive in his region. He said that the African

Commission believed that the two United Nations working groups could provide support and guidance. As far as the legal situation of minorities was concerned, he noted that the African Charter did not deal with minorities and had been adopted to liberate the continent from colonization. It conferred rights on individuals and families. Note should be taken, he said, of the Constitutive Act of African Union which would replace the Charter. In the meantime, the Commission had received complaints from minorities. He confirmed that the Commission had established a working group on indigenous people, at its twenty-sixth session, and a work plan had now been approved. Mr. Rezag-Bara stated that Africa could not be remodelled on ethnic lines and reaffirmed his belief that a multiethnic approach was the most suitable in the region. He drew attention to certain difficult issues including the conflicts that sometimes occurred between settled farmers and pastoralist or nomadic groups. He also noted that natural resources such as oil were often at the centre of situations involving human rights violations, in particular when certain groups felt they were getting no benefits but bearing the costs of extraction.

81. An NGO observer, on behalf of the Indigenous Information Network, UNIPROBA, MOSOP and WIMSA, made a joint statement underlining the importance of indigenous and minority questions in Africa. She referred to the particular problems faced by nomadic peoples. In conclusion, she recommended that a special rapporteur on minorities be established and called for the United Nations to provide technical assistance directly to indigenous peoples and minorities.

82. Mr. Sik Yuen expressed appreciation for the paper presented by Ms. Slimane and welcomed the participation of the Vice-President of the African Commission on Human and Peoples' Rights. He explained how Mauritius had accommodated minority or community interests and said that candidates for political posts were chosen in accordance with their ethnic identity.

(b) Europe

83. John Packer, Director of the Office of the High Commissioner for National Minorities of the Organization for Security and Co-operation in Europe introduced the "Lund Recommendations on the Participation of minorities in public life" which he said offered a range of solutions to problems affecting minorities in the field of participation, as experience had shown that the absence of respect for the rights of persons belonging to minorities was a source of instability and violence.

84. From the experience of the High Commissioner for National Minorities it had been understood that respect for the right of persons belonging to minorities to participate in public life was fundamental to the maintenance of their identity and dignity. The Lund Recommendations had been elaborated on this basis. A similar process of drawing upon experience and expertise had led to the elaboration of the Oslo Recommendations, which dealt with the regulation and administration of the use of the languages of minorities, and the Hague Recommendations proposing action on education matters deemed important to persons belonging to minorities. These various "Recommendations" contained policy guidelines which were in conformity with the provisions of relevant international and regional standards. Thus, they were founded on human rights, the rule of law, and democratic and good governance.

85. The "Lund Recommendations" contained: basic principles; recommendations for granting persons belonging to minorities a say in matters affecting them and control over such matters; and guarantees for the entrenchment of such entitlements through judicial or other means. Mr. Packer warned that the "Lund Recommendations" were not a panacea to solve all problems; rather, they should be viewed as a valuable reference source for Governments in considering alternatives to address some of the issues affecting minorities, based on the identification of shared values. Mr. Packer provided information on a further set of recommendations that had been elaborated, called the "Warsaw Guidelines", dealing with the question of enhancing minority representation through electoral processes, including in legislative bodies.

86. Antii Korkeakivi, observer for the Council of Europe and member of the secretariat of the Framework Convention on National Minorities, welcomed the increased cooperation between the Council and the United Nations and ongoing work in regard to the rights of minorities. He spoke of the need for a three-way dialogue between the Council of Europe, the United Nations and minorities in order to advance the issue. He referred to the study by the Max Planck Institute on "The Participation of Minorities in Decision Making" (E/CN.4/Sub.2/AC.5/2001/CRP.6) as a guide in this regard. The study examined the parliamentary representation of minorities and the exercise of parliamentary control; representation of minority interests in governmental agencies; informal channels of participation; different forms of autonomy; and approaches in federal systems.

87. Mr. Gilbert presented his paper on the jurisprudence of the European Court and Commission of Human Rights in 2000 and minority groups (E/CN.4/Sub.2/AC.5/2001/CRP.4). Mr. Gilbert noted that the interpretation of human rights was expanding, and as an example referred to article 14 of the European Convention on Human Rights which could be applied to indirect discrimination, where a particular group was disproportionately affected by general legislation. Mr. Gilbert provided detailed cases relating, *inter alia*, to: religion and minority groups; effective participation in cultural, social, economic, and public life; and way of life, which was increasingly being seen in the light of articles 9 and 14 of the European Convention on the obligation on States to permit pluralism. He argued that articles 10 and 11 were equally essential to pluralism in a democratic society and to preserve the culture of minority groups. Mr. Gilbert concluded by explaining that while the jurisprudence suggested that the European Convention could protect minority rights, it was not designed to do so, and it would be for the European Court, in any particular case involving a minority group asserting "minority rights", to state whether such claim was manifestly ill-founded. Furthermore, where a complaint was upheld, the onus would be on the State to provide remedies beyond damages, such as a change in the offending piece of legislation.

88. Mr. Kartashkin provided an overview of autonomy approaches in the Russian Federation. This was a summary of his study on the use of autonomy approaches in the Russian Federation (E/CN.4/Sub.2/AC.5/2001/WP.3). The Russian experience had shown that arbitrary divisions of territory without regard for ethnic groups had led to serious problems within the former USSR. He also reiterated that the enacting by States of legislation that conflicted with the Federation's Constitution had led to the disintegration of the former Soviet Union. Mr. Kartashkin emphasized that there was a danger in giving broad powers to national minorities as that could lead to excessive demands and secessionist movements. The constitutions of the Republics were

increasingly being brought into line with the Federal Constitution. New laws had been enacted allowing for the rehabilitation of repressed peoples, including restoration of their territorial, political, spiritual and cultural heritage(s). Russia was examining models of multiethnic nations and had come to the conclusion that the territorial model of autonomy was not acceptable to a national republic. The Russian Federation was increasingly drawn to the national cultural autonomy model as the best way forward, and, a gradual effort to implement it across the board was being made.

89. The observer for Finland informed the Working Group that his Government had requested the preparation of a paper on two examples of autonomy in Finland, which had been prepared by the independent expert, Lauri Hannikainen. In the view of the observer the Finnish autonomy models offered examples of peaceful and sustainable solutions to issues involving minorities and indigenous peoples. As such they were a contribution to the development of the "Culture of Prevention" of conflict being promoted by the United Nations. He also informed the Working Group that several seminars on the Åland Islands autonomy model had been held, including in Geneva and New York, out of which came a publication due for issue in June 2001.

90. Mr. Hannikainen then presented his working paper on "Examples of Autonomy in Finland, the Territorial Autonomy of the Åland Islands and the Cultural Autonomy of the Indigenous Saami People" (E/CN.4/Sub.2/AC.5/2001/WP.5). He noted that Finland had two special autonomous arrangements and that autonomy had worked well with these geographically distinct populations, assisted by a secure national democracy and stable democracies in surrounding States. He explained that the autonomy rights for the Åland Islands had existed and been strengthened for eight decades. The language rights of the Swedish-speaking Åland Islanders was particularly strong, while in the north of Finland - Lapland, which is the homeland of the Saami people - the Saami language enjoyed semi-official status. It was explained that the Saami were one indigenous people who lived in four different countries (Norway, Sweden, Finland and Russia). Although the issue of land rights remained unsettled, the Saami enjoyed strong cultural autonomy. The Saami had their own Parliament with specific, but restricted powers. Mr. Hannikainen expressed the view, that it would be desirable for the Saami Parliament to have increased legislative powers and that the land rights issue be resolved; until it was finalized, the Saami would remain a vulnerable group.

91. The Hungarian Parliamentary Ombudsperson for Minority Rights, Jenő Kaltenbach, discussed the functions of the Office of the Ombudsperson, describing it as "soft law" that did not provide for punishment but a strong independent body with broad investigative powers. The Office had a focus on protecting minorities and in six years had heard 2,500 cases of which two-thirds concerned the Roma minority. These cases drew attention to some of the problems faced by the Roma community with respect to unfavourable societal attitudes and the prejudgement of victims. He saw his role in the long term as contributing to a change in the mind-set of society, especially as regards its prejudice towards minorities, and to representing the most disadvantaged groups in society.

92. Christoph Pan of the Südtiroler Volksgruppen-Institut (SVI) made a presentation on positive experiences with autonomy in Europe. They included: Finland and the Åland Islands; Italy and Val d'Aosta and South Tyrol; Denmark and the Faroe Islands and Greenland; Spain and Catalonia and Galicia; Hungary and its introduction of cultural autonomy in its minority

laws of 1993; and in South-Eastern Europe, where the Republic of Moldova was able to settle peacefully the conflict with Gagauzians through territorial autonomy in 1994. In light of these experiences his presentation also drew attention to autonomy as a form of internal self-determination and autonomous self-administration as a means for the redistribution of power. He concluded by suggesting that a systematic exchange of information and experience on autonomy was needed in order to strengthen stability and peace in view of the growing awareness of the usefulness of autonomy as a method of conflict prevention and resolution.

93. Tom Hadden of the Queen's University of Belfast presented his paper on the Northern Ireland peace process (E/CN.4/Sub.2/AC.5/2001/CRP.3). He said that in the case of Northern Ireland it was difficult to separate ideas of territorial and cultural autonomy. As a general point, he believed it was often difficult to create autonomy at the local level as well as ensure meaningful participation in the national arena. He gave a brief background to the history of the region and said that he would focus on the Good Friday Agreement. Both the Governments of Ireland and the United Kingdom had agreed to grant self-determination to the peoples of Northern Ireland. Powers had been devolved to Northern Ireland as an autonomous region. Under the arrangement, the two communities were ensured a fair share in Parliament, at the ministerial level, and in public posts. While the agreement principally took account of the need for special provisions for the two largest communities, he was himself involved in the drafting of a bill of rights for the region that would guarantee human rights for all, including the smaller minority groups. He also referred to some of the cross-border bodies that had been established under the Good Friday Agreement, such as those dealing with European Union affairs and agriculture. While the system of arrangements and structures set up under the Good Friday Agreement was rather complicated, it was, in his view, a sound example of promoting cooperation between States for accommodating different communities' issues. He noted that such measures were called for under the provisions of the Declaration, particularly its articles 6 and 7.

94. The observer for the United Kingdom of Great Britain and Northern Ireland said that he found Mr. Hadden's paper balanced. He noted that the term "minority" might not be helpful in the Northern Ireland case. He said that the strength of the Belfast Agreement was that it accommodated different relations, those within Northern Ireland itself, those between Northern Ireland and Ireland, and those between Northern Ireland and the United Kingdom. He further said that the heart of the Good Friday Agreement was to ensure fair treatment for all, through a rather complicated process and framework, the implementation of which required compromise by all sides.

95. The observer for Ireland said that the idea behind the Agreement was to build reconciliation between the two communities while keeping open opportunities for constitutional change. The problem was that the Catholic and the Protestant communities had differing constitutional preferences. The Good Friday Agreement was a good basis, particularly for cooperation between regions and Governments, although there was still some way to go in dealing with crucial issues.

96. The observer for the Roma Centre of Public Policies "Aven Amentza" in a joint statement with SATRA/ASTRA, spoke about the educational and linguistic discrimination experienced by Roma in Romania. She indicated that the Romanian education systems accorded

insufficient attention to the use of the Roma language, nor was Roma history or perspectives included in the school curricula. Schools were largely mono-cultural institutions where Roma children were stigmatized and were frequently the brunt of racism and bullying. She suggested inclusive curricula for Roma, taking account of their language, history and culture, as well as ensuring safer learning environments.

97. The observer for Azerbaijan pointed out that autonomy could not be in conflict with international law and that self-determination should not be interpreted by minorities as a right to secession. By way of example, he spoke about the autonomous region granted to the Armenian minority population who had since sought independence. He said that autonomy should reflect the everyday needs of the people and not the political aspirations of some. Externally inspired secessionist movements had led to instability, unrest and distress, causing the displacement of populations and refugee situations.

98. The observer for Armenia stated that, given the large number of Armenian minorities all over the world, minority rights as collective rights were very important to his Government. Armenian communities had generally integrated well into the political, economic, social and cultural life of their host countries. However, the lack of appropriate mechanisms for the protection of Armenians living in Azerbaijan had continued after independence. He stressed the need to strengthen international and regional mechanisms to prevent such violations of minority rights and to promote mutual understanding between minorities and Governments. In 1994 a national mechanism for dialogue had been established in Armenia and 12 national minorities had founded the Union of Nationalities as an institution to represent their interests in all issues concerning minorities. He mentioned that the country's mechanisms of protection and implementation of minority rights were cited in Armenia's initial reports considered last year by the Committee on the Elimination of Racial Discrimination and the Human Rights Committee.

99. The observer for Consejo Gitano claimed that certain parties were afraid to discuss self-determination and autonomy. He also referred to the treatment of Roma/Gypsies in Switzerland and other European countries. It was the aspiration of the Roma to live in peace and dignity and not in a centralized and homogenous society. In his view, therefore, centralized autonomy did not work and decentralization was the answer.

100. The observer for Switzerland sought to clarify the position of the Roma in his country. All Swiss Roma enjoyed full citizenship rights. Some 20,000-30,000 people identified themselves as Roma in Switzerland, of whom only 4,000-5,000 pursued a semi-nomadic lifestyle. The Roma had been officially recognized as a Swiss minority. He acknowledged that in the 1950s and 1960s, Roma had been persecuted and their children arbitrarily removed. However, in 1980 the Swiss Government had issued an official apology for the removal of Roma children and provided more than 11 million dollars in damages to affected people. Roma still faced difficulties, however, concerning camp sites, education and cantonal job permits.

101. The observer for the Mécés László Association said that the Hungarian minority was the largest group in Slovakia, representing 11 per cent of the population. He suggested that regional autonomy might be an option where an ethnic minority was concentrated within a particular territory. He referred to the need for the right to autonomy of the Hungarian minority in Slovakia to be realized.

102. The observer for the Council of Social Organizations in Favour of the Basque Language spoke about the Basque people who lived in five regions, two of which are located in Spain and three in France. He described the success of the two autonomous regions in Spain and the problems of the Basque regions in France as regards the recognition of the Basque language. He said that the Basque people were seeking official recognition of their language in all five traditional regions as a recognition of their language and cultural rights.

103. The observer for the Sikh Human Rights Group spoke about the problems faced by minorities in Europe regarding the enjoyment of their religious and cultural rights through some degree of autonomous status. Difficulties had arisen from religion appearing to be treated as an issue in the personal domain within the discourse on human rights, which was based on individual rights and secular conceptions. By way of example, he indicated that Anglican and Catholic institutions in the United Kingdom had some degree of autonomy, while the Hindu, Muslim and Sikh institutions were regulated by Charity Commissioners who lacked competence in religious affairs. He invited the Working Group to consider discussing in the future such matters as the erosion of religious rights in Europe as a consequence of the secularization of rights.

104. The observer for the Greek Helsinki Monitor stressed that the effective participation of minorities required that sound supervisory measures be set up to follow the effective implementation of this right under domestic law and in conformity with international legal obligations.

105. Gyula Csurgai of the School for International Training presented information on a future research project concerning "autonomy as a form of self-management", and invited input from the Working Group participants.

(c) Americas

106. The observer for the Asociación Proyecto Caribe expressed the view that autonomy was needed in order for those of Afro-descent to reclaim their identity and control their own affairs while showing respect and tolerance for others. Effective monitoring of social justice and equity required the collection and analysis of statistics on Afro-Costa Ricans and that this was vital for effective planning and development. He believed that advances could only be made with mutual understanding, increased visibility of Afro-Costa Ricans and increased dialogue within the broader society. He offered recommendations for promoting mutual understanding among peoples as well as specific action to be taken to fund programmes of educational diversity and mutual understanding. He added that international cooperation for development must reach the Afro-descendant communities to assist in supporting their identity and culture.

107. An observer for All for Reparations and Emancipation expressed concern that the African American people had not been officially recognized by the United Nations. The African American people had endured 400 years of plantation slavery, forced breeding, loss of mother tongue, loss of origins, and were suffering still from the lingering effects of these acts. He claimed that the African American people were experiencing an ethno-genesis and were seeking autonomy as a means of reconstructing and re-conceiving their identity. The observer for the

National Commission for Reparations argued for the right of Afro-Americans to effective participation in all levels of decision-making and that reparations were necessary to enable her people to be effectively restored as a people.

108. The observer for the Minority Rights Movement of San Andrés, Providence and Santa Catalina Islands (Colombia) welcomed the advances in conceptualizing minority rights. He spoke about the situation of the Afro-descendants on the Island of San Andrés and explained why decentralization was an important strategy for protecting minority rights and achieving autonomy. In particular, he mentioned that education, which was officially supplied through the Roman Catholic Church in Spanish, was, in effect, assimilationist as the home language of Afro-descendants was a form of Creole and the school curriculum did not provide for teaching the history and culture of Afro-descendants. He expressed the view that self-help and prosperity should characterize autonomy programmes.

109. Ingrid Roy from the University of Ottawa, Canada, discussed minority language rights. She provided the Working Group with examples of autonomy from the Canadian experience. She urged the Working Group to set clear parameters on autonomy, self-government and self-determination from the start, to enable minority groups to fully understand the limits within which they were negotiating. If this were not done, the result might be that groups would have to go to court to establish the scope of their autonomy rights. She said that while Canada had provided access to the right to education in minority language(s) it had failed to ensure that minority groups were visible in the school curricula.

110. Thomas Simon from Illinois State University, United States of America, described the importance for effective autonomy of multi-level reform in the areas of constitutional law, other legislation and judicial review. He also discussed how case studies of failures and successes were important learning tools in negotiating autonomy. He expressed the view that it was important to define minorities. He proposed that the use of the term "vulnerable groups" might provide a better way forward and would be less problematic than "minority groups". Vulnerable groups identified on the basis of social development indicators could provide a more effective measure of their situation and for action to prevent their suffering further harm.

111. The observer for CIMARRON described how his people became victims of paramilitary groups in his country. This had resulted in the mass forced displacement of people and as such was the greatest problem faced by Afro-Colombians since slavery was abolished 150 years ago. He also raised concerns that mining and environmental legislation sought to limit the autonomy of the Afro-community and asserted that reforms were needed to ensure that his people participated effectively in decision-making processes at all levels. Of primary concern was the resolution of the armed conflict and a negotiated peace involving all ethnic groups.

112. The observer for ODECO identified socio-economic and political exclusion as a major concern facing Afro-descendant communities in Central America. Children orphaned as a result of HIV/AIDS was another serious difficulty, as this was contributing to the progressive loss of cultural values and mother tongue education. He expressed the opinion that further disempowerment was a result of assimilationist government policies and a lack of technical and financial resources, as well as erosion of community land ownership. The representative noted that at a summit meeting sponsored by the United Nations Development Programme the issue of

the development of Afro-descendants in Central America had been raised and the effective involvement and integration of Afro-descendants issues in both national and international development plans had been called for.

113. The observer of Mundo Afro noted that Afro-Americans had the poorest social indicators for employment, educational outcomes, health and well-being and the highest for violence against women. Educational issues included lack of visibility of Afro-descendants' culture and history in the school curricula and the problem of racist educational environments. He emphasized that good educational programmes should be recognized and encouraged. The representative expressed the need to ensure follow-up to the recommendations adopted at last year's Working Group in regard to displaced Afro-Americans in the Latin American region.

114. The observer of AFROAMERICA XXI called for greater recognition of Afro-descendants in all areas of society, including in the allocation of positions at universities. Afro-Americans sought inclusion in policy, planning and development processes. She stated that the lack of respect for Afro-Americans was evident as their input was absent from education, health and housing policies. Additionally, laws designed to give Afro-Americans access to land were not implemented. She requested the Working Group to carefully follow the measures taken by States with respect to ensuring the socio-economic development of Afro-American communities, especially as regards their ability to participate in and benefit from development programmes. Further comments on the situation of Afro-descendants and the implementation of their rights were presented by another observer for the same organization who said that his people did not want handouts nor decisions taken for them, but effective means by which to address their own issues. He suggested that bilateral and multilateral funding agreements could assist in such capacity-building for Afro-descendants' effective participation. He noted with concern that Afro-Latin Americans were under-represented in donor funding bodies and other bodies such as the World Bank, and the United Nations and urged these organizations to address racism in their own ranks and ensure that Afro-Latin Americans were equitably represented. He felt that aid distributed to Latin American countries such as Brazil was often directed to the wealthier White areas of the country, and not to the most needy areas where most of the people of Afro descent lived. He also called attention to a recent publication by his organization entitled "Quest for Inclusion: Realizing Afro-Latin Potential".

115. The observer for the Centro de Desarrollo de la Mujer Negra Peruana (CEDEMUNEP) informed the Working Group that Afro-descendants knew the answers to their problems but required support to implement the solutions from both the State, the United Nations and multilateral organizations. She felt that indigenous peoples had achieved some degree of recognition but Afro-descendants were still largely invisible in the human rights dialogue. She noted that in response to the World Conference against Racism, the Government of Peru had established an organization to address Afro and indigenous affairs. She urged the inclusion of Afro-Peruvians in her country's affairs and recognition of the right of her people to solve their own problems.

116. The observer for the National Coalition for Haitian Rights (NCHR) stressed that terms such as autonomy were not ends but processes or steps in dealing with issues relating to minorities. He drew particular attention to the plight of the children of Haitians born in the Dominican Republic but officially "stateless". In response, the Chairperson of the Working

Group pointed out that this matter was dealt with under the Convention on the Rights of the Child and as Haiti and the Dominican Republic were parties to the Convention they were required to take measures and action to address such issues.

(d) Asia-Pacific

117. Ranabir Samaddar, Director of the Peace Studies Programme, South East Asia Forum for Human Rights, introduced his paper on "Autonomy, Self-Determination and the Requirements for Minimal Justice in South Asia" (E/CN.4/Sub.2/AC.5/2001/CRP.2). In the paper he examined how minority protection is being managed in South Asia and offered suggestions for a change in the future approach. Minority rights in South Asia, he argued, were viewed primarily as cultural rights requiring protection rather than political and economic rights. States might grant limited cultural autonomy to minority groups, but withheld measures and avenues for sharing power. This was a consequence of the perception that minority rights belonged in the domain of ethnicity rather than being an issue of democracy. In view of this situation the subregion was now faced with the spectre of demands for homelands and other forms of partition as the solution to the minority question, with ethnic cleansing, and even acts of genocide, taking place in certain areas.

118. Constitutional arrangements and practices that were impediments to dialogue, reconciliation, the restoration of mutual trust and the invention of newer forms of coexistence and autonomy had failed to tackle the emergency situation. In his view, constitutions had been unable to recognize the inherent justice and dignity in the victims' demands. Therefore, he advocated supplementing the current discourse on minority protection founded on the guarantee of certain rights by a set of principles belonging to the sphere of justice. These principles had been drawn up following a broad study on the successes and failures of autonomy arrangements in South Asia and the fate of peace accords in the subregion. The study had looked at situations affecting particular groups in Bangladesh, Nepal, India, Pakistan and Sri Lanka. The paper and the larger study discussed six principles regarding autonomy and the limitations of constitutions. The six principles were: the principle of compensation for past injustices; the principle of supervision over the introduction of autonomy; the principle of custodianship; the principle of guarantees; the principle of innovation of federalism; and the principle of the feminization of relations. The last was described as the democratic recognition of dissent and a readiness to accept newer forms of coexistence.

119. Jeevan Thiagarajah of the International Centre for Ethnic Studies, Colombia, gave a brief introduction to the paper submitted by his organization, entitled the "Sri Lanka National Review" (E/CN.4/Sub.2/AC.5/2001/CRP.7). He explained that contributions for the preparation of the paper had been invited from several sources on such matters as non-discrimination; effective participation of minority groups in the governance of their own affairs; religious and cultural rights; access to language rights and education. He acknowledged that the contributions received did not cover the situation of all minority groups in Sri Lanka. The paper did, however, highlight some of the tensions that existed within the protection of the human rights of minorities under existing constitutional provisions. It also covered issues relating to the combating of terror while respecting human rights, the significance of identity in a conflict setting, as well as some of the difficulties of ethnic segregation resulting from the ongoing hostilities. He made mention of the policies and practices of the Government in attempting to address some of these issues,

including the constitutional reform process, which the Working Group learned about last year, and of the process of discussions for peace to which the Government is a party. With respect to the core issues in bringing about peace, he drew attention to the contents of page 11 of the paper in particular, and to the way in which the questions of nationhood and self-determination were addressed. He reiterated that the paper had used the provisions of the Declaration as its framework for judging national practice in Sri Lanka. He explained that part of the national debate on solutions to the conflict was dedicated to striving for the application of international standards and practices for the protection of minority rights in a conflict setting.

120. The observer for Sri Lanka acknowledged that there were inherent problems in looking at the protection of minority groups and that the United Nations Declaration provided a framework to work within. He recommended that the process of looking for solutions in partnership with Government should continue. He emphasized that Sri Lanka, being a multi-ethnic society, attached great importance to minority rights. He viewed the paper as flawed on the grounds that it did not properly represent all the communities in Sri Lanka and therefore was not a truly broad national report. He emphasized that the solutions pursued by the Government in regard to minority rights included a constitutional reform package. With reference to the need to find effective solutions, it would have been useful if the paper had provided suggestions on the constitutional reform package. He believed that homeland movements could interfere with respect for the territorial integrity of the State. He referred to the argument that while a minority had a right to seek autonomy within the existing framework of the State, radicalism and violence were becoming common with regard to some minority issues. He paid homage to some of the participants at previous sessions of the Working Group who had tragically paid with their lives for trying to find a genuine and workable solution to the ethnic issue in Sri Lanka. He argued that non-violence, dialogue and reciprocal arrangements provided the best way forward. In concluding, he asked that his Government's response also be made available as a conference room paper to accompany the paper submitted by the International Centre for Ethnic Studies.

121. With respect to Mr. Samaddar's paper and its contents, the observer for India stated that he was firmly of the view that the rights of minorities were best guaranteed within a democratic and constitutional framework, which allowed for the firm establishment of equality before the law and non-discrimination. He stated that the federal structure in place in India provided the flexibility for pluralism to flourish. By way of example, he noted that last year in India three new states were created as a consequence of the aspirations of particular groups to have more autonomy in their everyday life.

122. The observer for the South India Cell for Human Rights Education and Monitoring (SICHREM) spoke about the situation of the Tamil-speaking minority in South India. He expressed the view that certain Tamil-speaking people were still being held, some since 1993, under the Terrorist and Disruptive Activities Act (TADA), which in his view had been allowed to lapse in 1995. The Working Group was asked to urge the Government of India to become a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; to respect international standards for fair trial and release illegal detainees; and to investigate the allegations of human rights violations made before the Justice Sadashiva Commission.

123. The observer for the Third World Studies Centre spoke about the possibility of abuses against ethnic and religious minorities in one country having repercussions in neighbouring countries. He mentioned in particular hate campaigns and violence by extremist religious organizations against religious minorities, which responded by migrating. Religious minorities were allegedly victims of human rights violations in Pakistan, Afghanistan, India and Sri Lanka and ethnic minorities in Bangladesh and Bhutan. He asked that the Working Group visit the South Asian region and that a regional meeting be organized to examine possible solutions to the problems faced by religious and ethnic minorities.

124. In response, the observer for Pakistan expressed the view that the positive and constructive atmosphere that had characterized relations between the participants at the Working Group was under attack by government sponsored NGOs which were raising issues that were not only extraneous to the debate but were based on conjecture and reflected political bias. This would lead to undesirable politicization of the Working Group and diminish its credibility. He objected to some of the statements made with respect to his country, which were said to be "casting aspersions" against his country and were designed to promote divisions where they did not exist.

125. The observer of the Nepal Indigenous Peoples Development and Information Centre (NIPDISC) discussed the historic and ongoing marginalization of the Kirati people in Nepal, where they were denied the rights articulated in the Declaration. They had no language rights, as Nepalese was the official language of the State and official documents and education were not available in indigenous languages. He explained that demands for autonomy or self-determination by indigenous peoples or minorities were often viewed by the State as calls for separatism. He asked that the Government of Nepal effectively implement the Declaration on Minorities and ILO Convention No. 169.

126. The observer for MAP discussed the right of association and the responsibility of States to promote minority rights. He called on the Government of Indonesia to resolve peacefully and democratically the problems in "West Papua", possibly using the integration approach as discussed in the Working Group. He indicated that the Indonesian Parliament had rejected the autonomy package proposed by the "West Papuans". He acknowledged that there were two factions in "West Papua", one which sought autonomy and the other which was seeking separation from Indonesia. He described the devastation and despair affecting the people of "West Papua" and appealed for Indonesia to open a dialogue with them. He said he feared for his people and for his own safety upon his return home. He called a truth and reconciliation commission to assist in dealing with the situation in "West Papua". In response, the Chairperson-Rapporteur drew attention to the special procedure set up by the Commission on Human Rights for addressing the concerns of human rights defenders who feared for their safety and who should not face repercussions from cooperating with United Nations bodies such as the Working Group on Minorities.

127. The observer for the Kurdish Reconstruction Organization expressed the view that the aspirations of the Kurdish people should not be seen as essentially separatist in nature. What the Kurds sought was proper adherence to the Washington Agreement and ultimately a unified and democratic Iraq, leading to the full enjoyment of their human rights.

128. At the end of the debate, the Chairperson-Rapporteur said that the discussions over the past few days had revealed the variety and complexity of the situations facing minorities in different parts of the world; minority issues were not simply a European concern. The Working Group had heard different experiences and concerns and requests for support, and respected the views expressed that communities knew what they need to do and simply required support to implement those ideas. As we became more global in our understanding of various peoples and groups, it would appear that we needed to be more creative in finding recommendations and solutions to protect and promote the rights of groups and communities.

IV. RECOMMENDING FURTHER MEASURES, AS APPROPRIATE, FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF PERSONS BELONGING TO NATIONAL AND ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

129. Under this agenda item, recommendations for further measures to protect and promote the rights of minorities were made and information provided on the work of United Nations bodies and specialized agencies.

130. The observer for the International Labour Organization (ILO) pointed out that the bases for the Organization's work regarding minorities were the ILO Declaration on Fundamental Principles and Rights at Work and respect for such international labour standards as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). He said that the problems of migrant workers were often related to the fact that they belonged to minorities. He shared information received by ILO on the problems of minorities, including the continuous difficulties faced by the Roma with respect to access to employment, occupation and basic vocational training. With respect to the Organization's activities regarding freedom of association, particularly on the issue of encouraging minority representation in trade unions, he noted that in a number of countries membership in Unions was restricted to nationals. Finally, he spoke about the active participation of the ILO in preparations for the World Conference against Racism through raising awareness worldwide of the problems faced by minorities in the fields of employment and occupation.

131. The observer for the Office of the United Nations High Commissioner for Refugees (UNHCR) highlighted some of the linkages between minority and refugee issues. She explained that the Office's protection role required it to gather information on human rights abuses which might lead to refugee flows and indicated that ethnic, religious or national minorities were among the most vulnerable groups displaced by force or persecution. Its mandate also covered the protection of stateless people, and members of ethnic, religious or linguistic minorities were disproportionately affected by the problem of statelessness. By way of example, after the dissolution of Czechoslovakia the Roma faced enormous difficulties in meeting the criteria for acquiring Czech or Slovak nationality, which led to many of them becoming stateless. She also cited education programmes for refugees, in particular the "Peace education and capacity building" project launched by UNHCR in schools in the refugee camps in Kenya, Uganda,

Liberia, Sierra Leone and Guinea, with the aim of reducing ethnic and racial tension and thereby preventing future human rights abuses and refugees flows. Similar projects were to be implemented in Ethiopia and the Democratic Republic of the Congo.

132. The observer for UNESCO spoke about the organization's work in promoting peace and cultural diversity through cooperation in the areas of education, science and culture. One of its main missions was to safeguard the tangible and intangible cultural heritage of the world. The new programme "Masterpieces of Oral and Intangible Cultural Heritage of Humanity" to safeguard traditional and popular cultural expressions and forms such as languages, rituals, performing arts and oral history was of special interest for minorities. She described UNESCO action to promote linguistic diversity, including its publication of books in endangered languages and the holding of seminars on linguistic policy. Finally, she provided information on the project "The Route of Slavery" which covered the history of the slave trade and was designed for schools.

133. An exchange of views between the previous speakers and various participants ensued. Regarding recommendations for action, the observer for CIMARRON spoke about the need for minority claims to be taken into account in the work of United Nations organizations. In his view, the Working Group had an important role to play in that regard and should consider the possibility of drafting guidelines to ensure that the concerns of minorities were incorporated into United Nations cooperation and development programmes at the national and regional levels. The observer for the Russian Federation suggested that United Nations bodies should consider undertaking joint studies or projects on specific minority situations.

134. A number of NGOs recommended that action be taken by OHCHR or another international organization, including the Bhutan Women and Children Organization (UNHCR, OHCHR and international NGOs to monitor the verification process of Bhutanese refugees in Nepal); Karen National Union (the United Nations to provide technical assistance to minorities, particularly the Karen, in Myanmar in the fields of education, language and culture); Papua Council and MAP (the United Nations to strengthen and support the process of democratization in Indonesia).

135. Mr. Kartashkin expressed regret that fewer representatives from Member States were in attendance at the present session of the Working Group. It was therefore necessary to forward the written information and the statements made by NGOs to States, with a view to promoting dialogue among Governments and NGOs, and inviting their replies and attendance at the eighth session of the Working Group. He also appealed to States to consider inviting the Working Group to undertake visits to their countries and for necessary funding to be secured to such country visits. Similar sentiments on the importance of country visits were expressed by the observer for Switzerland.

136. Many NGOs also requested that the Working Group follow up on recommendations made at the session, including the recommendations for country visits which was supported, inter alia, by the Bhutan Women and Children Organization (to refugee camps in Nepal), Inter-Ethnic Initiative for Human Rights Foundation (Bulgaria), Papua Council and MAP (Indonesia).

137. Mr. Kartashkin expressed the view that the Working Group's debate on autonomy and integration had revealed that such arrangements were fundamental to national discussions on minority issues. He therefore suggested that the Working Group consider elaborating principles to be used in resolving questions of autonomy as they related to minority issues for presentation to Member States. He also recommended that a study be carried out on the legitimate and appropriate forms and means for minorities to defend their rights in the light of international standards on human rights. On the question of monitoring and assessing the situation of minorities in a particular State, he invited NGOs to submit their views on the matter to the next session of the Working Group.

138. The observer for the Minority Rights Movement of San Andrés, Providence and Catalina Islands also requested that the Working Group continue discussing the issue of autonomy, find new mechanisms and strategies to create a collective national, regional and international conscience to combat racism, racial discrimination, intolerance and xenophobia, and identify channels for dialogue with Governments so that they might better implement relevant laws.

139. The observer for the International Centre for Ethnic Studies described some recent activities undertaken by the Centre at the regional level. They included the holding of a training workshop for non-governmental organizations from South Asia on minority rights and monitoring the implementation of such rights, as well as the organization of a brainstorming session to discuss the question of the provision and development of advisory services to minorities in South Asia. These activities were aimed at enhancing the capacity of minorities to claim their rights and to bring violations of minority rights to the attention of the international community, in addition to strengthening the monitoring functions of human rights mechanisms. She highlighted the need to develop networks among NGOs working on minority issues in order to elaborate strategies for national and regional advisory services to protect the rights of minorities as a contribution to the prevention of ethnic conflicts. She stressed that initiatives on advisory services had to take due account of local needs and circumstances and should be developed in accordance with the provisions of the Declaration.

140. Mr. Rezag-Bara, offered various recommendations for the Working Group's consideration. They included: (a) strengthening cooperation and the exchange of experiences between the United Nations Working Groups on Minorities and Indigenous Populations and the African Commission; (b) organizing a third seminar on multiculturalism in central or southern Africa as a follow-up to the Arusha and Kidal seminars; (c) supporting the process of democratization in Africa

V. THE FUTURE ROLE OF THE WORKING GROUP

141. The Working Group discussed various matters under this heading, including: (i) the structure of the agenda and themes for discussion at future sessions; (ii) a special representative or rapporteur on minorities; (iii) future Web pages and a database on minorities; and (iv) the contribution of the Working Group to the World Conference against Racism, to be held in Durban, South Africa, from 31 August to 7 September 2001.

142. The Chairperson-Rapporteur read out the list of recommendations drafted earlier by the Working Group at its private session. He indicated that many of the recommendations had taken into account suggestions made orally during the previous meetings, especially from members of the Working Group, as well as written suggestions he had received including from Tom Hadden, Geoff Gilbert and the observer for the Islamic Republic of Iran. The recommendations were in two parts. The first part dealt with suggestions for action to be addressed to the Sub-Commission and from there to Governments, non-governmental organizations, treaty bodies, the Commission on Human Rights, and the United Nations system, including the Office of the High Commissioner for Human Rights. The second part dealt with matters pertaining to the work of the Working Group. As such, it was reiterated that the recommendations and agenda remained strictly within the mandate of the Working Group. He called for responses to the recommendations, including as regards the future work of the Working Group.

143. Mr. Kartashkin pointed to an omission in the recommendations relating to the agreement of the Working Group members that OHCHR, when asking for comments on the best way to protect the rights of minorities, should include the question of the possibility of drafting a convention on the rights of minorities. The Chairperson-Rapporteur agreed that this had been overlooked and would be included in the revision of the recommendations. The observer for Switzerland spoke about the concerns raised in the Commission on Human Rights with respect to the question of the drafting of a convention. Mr. Kartashkin also raised the importance of country visits by the Working Group, upon the invitation of Governments, as did the observer for Switzerland. Various minority and non-governmental representatives supported the possibility of country visits, with specific country visits being requested, and also indicated their willingness to support field visits by academics.

144. Concerning the structure of the agenda, several government observers (among them those of Egypt, India, Iraq and Pakistan) stressed that the Working Group should not exceed its role, that its work should not overlap with that of other mechanisms, and that the Working Group should closely follow and take account of the decisions emanating from the review of mechanisms undertaken by the Commission in 2000. They also were of the view that the Working Group had no mandate to define or recognize groups who identified themselves as minorities. They expressed preference for an approach to the handling of minority issues that would be acceptable to all interested parties. The observer for Egypt also informed the Working Group that his Government did not recognize the Working Group's competence to deal with the issue of Christian Copts, and insisted that such issues were better dealt with by other mechanisms, especially the Special Rapporteur on religious intolerance. The Chairperson-Rapporteur explained that the Working Group listened to groups claiming they were minorities, although the recognition of such groups as minorities was not always accepted by the Governments concerned.

145. In addressing recommendations to Governments, it was suggested (by the Islamic Republic of Iran) and agreed by the Working Group that a request for States to become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families also be added to the list of important human rights treaties to be universally ratified. Furthermore, many participants suggested that specific mention should be made of the Committee on the Elimination of Racial Discrimination when requesting the treaty

bodies to take account of issues concerning minorities in their work. Concerning the request for the merging of two different recommendations relating to requests for information from (raised by Egypt, India, Pakistan and Iraq), the Chairperson-Rapporteur said that such a merging would not be useful while the six enumerated human rights treaties had not achieved universal ratification. He further explained that the sending of information by States was purely voluntary and where Governments had already provided such information in their State party reports, a simple indication of this would be sufficient. It was also recalled that several participants, including Mr. Sorabjee and the observer for Switzerland, had requested that national jurisprudence be collected, i.e. cases dealt with by the highest court in each country pertaining to the protection of the rights of minorities. It would be useful if Governments, among others, were to provide such information to the Working Group in the future.

146. With respect to jurisprudence from regional mechanisms, the observer for Turkey pointed out once again with regret that information available to the Working Group had related only to the European Court and Commission. The Chairperson-Rapporteur said that the Working Group would very much appreciate receiving details at future sessions of jurisprudence from the other regional mechanisms, especially the Inter-American system. However, the reality was that papers were prepared on a voluntary basis and were dependent upon the expertise and goodwill of participants. The observer for Switzerland suggested that the Working Group consider addressing a specific request for information on jurisprudence to other regional intergovernmental organizations. Moreover, many minority and non-governmental representatives requested that minority representatives be invited to collaborate with academic experts on future working and conference room papers. On the question of addressing recommendations to regional mechanisms, the observer for Hungary requested that subregional organizations also be invited to contribute to the deliberations of the Working Group, including on autonomy and integration matters. Equally, the observer for the Greek Helsinki Monitor Group suggested that the Stability Pact for the Balkans also be invited to cooperate.

147. Several observers (China, Egypt, Pakistan, India) emphasized the importance of the Working Group's role as a forum for finding solutions to issues affecting minorities and not simply as a complaint mechanism, as other mandates existed for that purpose. The observer for Iraq referred to the role of the Working Group as promoting research, dialogue and fact-finding. In this regard, he suggested that it would be important for the Working Group not only to look into the situation of the Roma but also to undertake a comparative study on the issues facing minorities throughout the Middle East. In response, the Chairperson-Rapporteur noted that the situation of various minorities from different regions and subregions had been raised at the present session. As the focus of discussions was often dependent on the participation at the Working Group, he agreed that more minority representatives from other subregions would be welcome.

148. Many representatives of minority and non-governmental organizations requested that academic experts be commissioned to conduct regional and country specific studies, as well as thematic studies. Suggested topics for study included South-Eastern Europe, religious minorities in Asia and the Pacific, and the situation of Afro-descendants in Brazil.

149. A number of suggestions for changing the methods of work of the Working Group were proposed by the observer for the Danish Centre for Human Rights and the Minority Rights Group International, who read out a joint statement on behalf of 20 NGOs. The latter suggested the establishment of a trust fund, which did not find support from the observer for Japan. More particularly, it was suggested that there be a shift of focus in the Working Group from problem-raising to problem-solving. Other NGOs expressed the desire to know more about the follow-up taken with respect to the recommendations for action on specific minority issues made by particular organizations. It was suggested, therefore, in future the discussion could be structured so as to encompass points brought up by minority representatives and comments by the observer Governments. To facilitate the discussions, a speaker's list on all items of the agenda should be instituted. It was further suggested that one of the main functions of the Working Group was as a learning forum for inter-group coexistence and to promote constructive interaction with other United Nations agencies and bodies, in particular the treaty bodies whose members should be invited to attend future sessions of the Working Group. It was also suggested that the Working Group should hold regional meetings between its sessions in Geneva. Additionally, calls were made to hold regional seminars of the Working Group in the Asian-Pacific and Latin American regions, in light of the positive experience of the African regional seminars. Several specific suggestions were made as to the preferred venues for the holding of regional meetings and for ensuring that they were organized in cooperation with minority representatives and communities.

150. Various non-governmental organizations, minority representatives and scholars had requested that the Working Group consider recommending the establishment of the mandate of a special rapporteur on minorities. The Working Group's decision to recommend that the Commission consider appointing a Special Representative on vulnerable minorities drew a variety of responses, especially from Government observers (China, Egypt, India, Iraq, Japan, Pakistan): first, the ability of OHCHR to service such a mandate was questioned; second, why the term "special representative", rather than "special rapporteur", had been chosen; third, clarification was requested as to the meaning of the term "vulnerable minorities" and the rationale for such a qualification. In response, the Chairperson-Rapporteur explained that the request had been addressed to the Commission through the Sub-Commission. However, he agreed that the issue of the appropriateness or usefulness of the term "vulnerable" would need to be clarified. However, this year's thematic debate had once again revealed that not all minorities were disadvantaged; in fact, some were in a more favourable social and economic position than other groups. The use of the term "vulnerable" had been an attempt to respond to this reality. Many minority and non-governmental representatives spoke of the importance of the appointment of a special rapporteur on minorities, with a view to further investigating minority rights situations. Such a mechanism was viewed as complementary to the work of the Working Group, and it was thought that the nomination of a minority representative to such a post would be ideal.

151. The observer for Switzerland spoke about the usefulness of receiving NGO statements in advance of the next session of the Working Group and was pleased to see a recommendation to that effect. The observer for the Russian Federation requested clarification about which minority representatives and non-governmental organizations were to be requested to send information to the secretariat by February 2002, in view of the fact that this information was to be forwarded to Governments for possible response and consideration at the eighth session of the Working Group

in May 2002. The Chairperson-Rapporteur explained that those present at the seventh session, as well as other organizations contacted by Minority Rights Groups, for example, to participate at the eighth session could send information.

152. It was decided that the two themes for the next session would be (a) matters of integration and autonomy, as well as legitimate ways and means for minorities to protect their rights; and (b) development assistance and cooperation for the better protection of the rights of minorities. Papers called for under these themes would be prepared by, *inter alia*, Tom Hadden and Minority Rights Group International. National practice would be an important focus of the studies called for under the first theme and the papers would distinguish between activities supported at the national, regional and international level, respectively.

153. The Chairperson-Rapporteur explained that the next session of the Working Group would consider drawing up guidelines or principles on the issue of effective participation of minorities in public life through integrative and autonomist measures, as well as the legitimate means open to minorities to protect their rights. Any document containing such guidelines, principles or recommendations could form part of an addenda to the Commentary. Similarly, it was the intention of the Working Group to develop such guidelines and principles on the issue of development assistance and minorities in 2003 as an addition to the Commentary.

154. The proposed publication of specific Web pages on minorities and the possibility of developing a database on minorities evoked many responses from observers of Governments, minority and non-governmental representatives as well as academics. Governmental observers cautioned against the publication of information other than intergovernmental papers on the United Nations Web site. Similarly, the view was expressed that the only links should be to other intergovernmental organizations Web sites, in accordance with United Nations practice. With respect to conference room papers, which were published with a disclaimer, and whose contents had not necessarily been requested or their contents supported by the Working Group, government observers suggested that the Working Group should be very cautious in giving its approval to these documents. The Chairperson-Rapporteur said that the comments were being carefully considered by the Working Group and that it had taken the decision to remove from the Web site those conference room papers produced for this year's session, which had not been approved by the Working Group. This did not prevent NGOs from publishing these documents on their own sites, an initiative which had already been taken by Greek Helsinki Monitor. A full discussion on this matter would be held at the next session of the Working Group, including with respect to cooperation and division of labour with other organizations such as the Consortium of Minority Resources (COMIR).

155. In concluding, the Chairperson-Rapporteur pledged that the Working Group would take account of the comments raised and agreed that there was scope and flexibility for making minor modifications to the recommendations, especially as certain of them required the approval of the Sub-Commission and the Commission.

156. Finally, the Chairperson-Rapporteur introduced his paper on possible elements for a statement to the World Conference on clarifying the relationship between prevention of discrimination and the protection of minorities, including through a reference to the practice of the Sub-Commission on these two concerns.

157. The observer of Norway informed the Working Group that her Government was actively engaged in preparing for the World Conference against Racism. The Government was cooperating with civil society and NGOs as key partners and viewed the questions relating to minorities, migrants, refugees, indigenous peoples and the Roma as key issues. She expressed the hope that the World Conference would give direction and impetus to the struggle to put an end to all forms of racism and intolerance. In her view, the Working Group on Minorities offered vital input to the preparations and to the Conference itself, including the discussions at the seventh session on issues relating to minorities, the Roma and indigenous peoples, groups which were already mentioned in the draft declaration and plan of action of the Conference.

VI. CONCLUSIONS AND RECOMMENDATIONS

158. On the basis of the discussions held during the seventh session, the Working Group agreed on its conclusions and recommendations for future action. They are set out below.

A. Recommendations to be forwarded through the Sub-Commission

TO GOVERNMENTS

1. To ratify, if they have not already done so, the seven major treaties and the provisions relating to individual petitions, in particular to ratify the International Convention on the Elimination of All Forms of Racial Discrimination and to make the declaration under article 14 of the Convention.
2. To disseminate as fully as possible, within their country, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities including, where appropriate, in the minority languages.
3. To consider providing the Working Group with information about constitutional, legislative, judicial, administrative and financial developments of relevance to the implementation of the Declaration. Where States are party to the relevant treaties, indications of information contained in reports submitted to the treaty bodies would be welcomed. The Working Group would particularly appreciate information about recent cases relating to minority rights of the highest courts of the country.
4. To consider providing the Working Group with names of experts in minorities in their country, with a view to facilitating their participation in regional and international meetings and in advisory services.

TO REGIONAL AND SUBREGIONAL ORGANIZATIONS

5. Noting with appreciation the work done by the Office of the High Commissioner for National Minorities of the Organization for Security and Cooperation in Europe, the Working Group recommends that the other regional organizations explore the possibility of establishing similar institutions.

6. Noting with appreciation the entry into force of the European Framework Convention on the Protection of National Minorities and the initial work of the Committee, the Working Group recommends that other regional organizations explore the possibility of similar standard-setting and institutional development, taking into account the specificities of the region concerned.
7. The Working Group recommends that the Organization for Security and Cooperation in Europe and the Council of Europe intensify their work to ensure that persons belonging to the Roma are not subjects of discrimination and can enjoy their minority rights in all fields, including education and language.
8. The Working Group recommends continued and improved cooperation between the Working Group on Minorities and the African Commission on Human and Peoples' Rights, including the undertaking of a joint study on the relationship between minorities and indigenous populations as it pertains to the African region.

TO THE TREATY BODIES

9. That they take particular care, in their examination of State party reports, to explore whether sufficient measures have been taken by the States concerned to protect members of national or ethnic, religious and linguistic groups from discrimination and violations of their human rights. The Working Group invites the treaty bodies, within their respective mandates, and particularly the Committee on the Elimination of Racial Discrimination, to give attention to the Declaration and the Chairperson's Commentary in their work.
10. That attention be given, in particular, to the situation of the Roma and the Sinti in the countries where they exist, taking into account that they appear to face special difficulties in many countries.
11. That the Committee on Economic, Social and Cultural Rights in its interpretation and dialogue concerning article 15 of the International Covenant on Economic, Social and Cultural Rights give full attention to the cultural rights of minorities.
12. That the Committee on the Rights of the Child in its interpretation and application of article 29 give full attention to the educational rights of children of minorities.
13. That the Human Rights Committee in its interpretation and dialogue on article 27 of the International Covenant on Civil and Political Rights take fully into account the Declaration and the work of the Working Group on Minorities.

TO THE UNITED NATIONS, INCLUDING THE OFFICE OF THE HIGH COMMISSIONER

14. To provide advisory services on minority issues, where requested by countries, drawing upon international, regional and national expertise, to facilitate conflict prevention and conflict resolution.

15. To request the High Commissioner, when inviting Governments and relevant intergovernmental and non-governmental organizations to submit their views on how best to protect the rights of persons belonging to minorities, to also request their views on the possible drafting of a convention on the rights of minorities.

TO THE COMMISSION ON HUMAN RIGHTS

16. To consider the possibility of recommending the appointment of a Special Representative on minorities.
17. To recommend the establishment of a voluntary trust fund to facilitate the participation in the Working group of minority representatives, and experts from developing countries, and other activities relating to the protection of minorities.

TO NON-GOVERNMENTAL ORGANIZATIONS

18. To organize training workshops to increase the awareness by minorities of the Declaration and enhance their capacity to utilize United Nations and regional mechanisms.

B. Further work of the Working Group

1. The main structure of the agenda should be retained, but further work should be done to better focus the discussions during each session.
2. The Working Group decides to continue its practice, initially established at its fourth session, of submitting information presented at its sessions by minority representatives and non-governmental organizations to Governments concerned that were not represented by observers at the session and therefore were not in a position to respond to the information presented, thus providing an opportunity for concerned Governments to provide information additional to that submitted by NGOs. Representatives of the Working Group are also prepared to visit countries upon request from the Government concerned.
3. In regard to the discussion under item 3 (a), minority representatives are encouraged to send to the secretariat their intended submissions by the end of February 2002, with a view to such submissions being forwarded to Governments in advance of the next session of the Working Group thus making it possible for Governments, if they so wish, to prepare their comments or responses in time for the next session of the Working Group.
4. Under item 3 (b), the focus during the eighth session should be on two themes:
 - (a) Further reflection on autonomist and integrative approaches to minority protection in multicultural societies, with a view to adopting a set of recommendations at the end of the eighth session, in 2002:

- By identifying guidelines for establishing or strengthening mechanisms and procedures for minority protection by involving all relevant groups in society, and requesting Tom Hadden to prepare an updated working paper addressing these issues, taking into account also the outcome of the seminar to be held by the Danish Centre for Human Rights;
 - By identifying effective and legitimate means which can be used by minorities and Governments in their effort to promote their respective rights and to maintain or restore human rights-based law and order, and requesting Mr. Asbjørn Eide to prepare a working paper on that subject;
- (b) Focusing on national development policies, international development cooperation and the rights of minorities (article 5 of the Declaration) with a view to preparing future recommendations at the ninth session, in 2003, and requesting Minority Rights Group International to prepare a working paper on the second main theme.
5. In furthering the work of the Web site and the databases, the Working Group will take into account the recommendations made by the consultants to OHCHR and the Consortium of Minority Rights (COMIR) on future strategies for the OHCHR Web site on minority rights. Until a fuller discussion has been held at the eighth session on the Web site, the following policy should apply to the OHCHR Web site:
- (a) It should include the working papers prepared by the members of the Working Group or authorized by the working group;
 - (b) Conference room papers shall be posted on the Web site only for two weeks prior to the session and during the session itself, to facilitate availability for participants at the Working Group session, but shall thereafter be taken off the Web site.
6. The policies regarding the Web site should be examined in greater depth at the eighth session.
7. The Working Group encourages the holding of seminars, in cooperation with interested institutions, in the period between the seventh and eighth sessions.
8. The Working Group welcomes the planned international seminar in Durban on facilitating cooperation between international treaty bodies and regional mechanisms for the better protection of minority rights.
9. The Working Group takes note with satisfaction of the offer to hold a seminar, at the invitation of the University of Concordia in Montreal, on the situation and rights of Afro-Americans, and recommends that a follow-up seminar on that theme be held, in the Americas, by OHCHR before the eighth session.

10. The Working Group takes note with satisfaction of the offer by the Danish Centre for Human Rights to organize a seminar on autonomist and integrationist approaches to minority protection, and of the offer by the Human Rights Centre at Queen's University of Belfast to further contribute to these issues. It recommends that a concerted effort be made by those two institutions to facilitate the drafting of recommendations on these issues to help the discussion at the eighth session.
11. The Working Group takes note of the offer of the International Centre for Ethnic Studies to explore the possibility of holding a seminar in the Asian region on issues of relevance to peaceful group accommodation and minority rights.
12. In regard to agenda item 4, the Working Group will at its eighth session evaluate the manual and the fact sheets published so far with a view to proposing addenda to the Commentary and additional fact sheets.

Annex

**LIST OF DOCUMENTS BEFORE THE WORKING GROUP
ON MINORITIES AT ITS SEVENTH SESSION**

Title	Symbol
E/CN.4/Sub.2/AC.5/2001/1	Provisional agenda
E/CN.4/Sub.2/AC.5/2001/1/Add.1	Annotations to the provisional agenda
E/CN.4/Sub.2/AC.5/2001/2	Final text of the Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, prepared by Mr. Asbjørn Eide, Chairperson-Rapporteur
E/CN.4/Sub.2/AC.5/2001/3	Report of the second workshop on multiculturalism in Africa: peaceful and constructive group accommodation in situations involving minorities and indigenous peoples (Kidal, Mali, 8-13 January 2001)
E/CN.4/Sub.2/AC.5/2001/WP.1	[Symbol not used.]
E/CN.4/Sub.2/AC.5/2001/WP.2	Peoples' rights in Africa: towards the recognition and protection of ethnic, religious and linguistic specificities?: paper prepared by Ms. Samia Slimane
E/CN.4/Sub.2/AC.5/2001/WP.3	Study on the use of autonomy approaches in the Russian Federation: paper prepared by Mr. Vladimir Kartashkin and Prof. A.X. Abarhidze
E/CN.4/Sub.2/AC.5/2001/WP.4	Cultural autonomy and territorial democracy: a recipe for harmonious group accommodation?: paper prepared by Mr. Asbjørn Eide
E/CN.4/Sub.2/AC.5/2001/WP.5	Examples of autonomy in Finland: the territorial autonomy of the Åland Islands and the cultural autonomy of the indigenous Sámi people: paper prepared by Mr. Lauri Hannikainen, Director of the Northern Institute for Environmental and Minority Law, Arctic Centre, University of Lapland, Finland
E/CN.4/Sub.2/AC.5/2001/WP.6	Integrative approaches to the accommodation of minorities: Paper prepared by Tom Hadden, Professor, The Queen's University of Belfast and Ciarán O Maoláin of The Queen's University of Belfast

Title	Symbol
E/CN.4/Sub.2/AC.5/2001/WP.7	"Lund Recommendations on the Effective Participation of National Minorities in Public Life" submitted by John Packer, Director, Office of the High Commissioner for National Minorities, Organization for Security and Co-operation in Europe
E/CN.4/Sub.2/AC.5/2001/WP.8	The relationship between racism and the protection of the rights of persons belonging to minorities: notes for a possible statement for the World Conference against Racism, prepared by Mr. Asbjørn Eide
E/CN.4/Sub.2/AC.5/2001/CRP.1	Autonomy in the 21st century: through theoretical binoculars: paper prepared by Tim Potier, Assistant Professor in Law, Law Programme Coordinator, Intercollege, Nicosia
E/CN.4/Sub.2/AC.5/2001/CRP.2	Autonomy, self-determination and the requirements of minimal justice in South Asia: paper prepared by Ranabir Samaddar, Director, Peace Studies Programme, South Asia Forum for Human Rights
E/CN.4/Sub.2/AC.5/2001/CRP.3	The peace process in Northern Ireland: paper prepared by Tom Hadden, Professor, Centre for International and Comparative Human Rights Law, The Queen's University of Belfast
E/CN.4/Sub.2/AC.5/2001/CRP.4	Jurisprudence of the European Court and Commission of Human Rights in 2000 and Minority Groups: prepared by Geoff Gilbert, Professor, Department of Law and Human Rights Centre, University of Essex
E/CN.4/Sub.2/AC.5/2001/CRP.5	Autonomy and minority groups - a legal right in international law?: paper prepared by Geoff Gilbert, Professor of Law, Human Rights Centre, University of Essex
E/CN.4/Sub.2/AC.5/2001/CRP.6	The participation of minorities in decision-making: expert study authored by J.A. Frowein and Roland Bank, of the Max Planck Institute, and submitted by Antti Korkeakivi, Administrator, Secretariat of the Framework Convention on National Minorities, Directorate General of Human Rights, Council of Europe

Title	Symbol
E/CN.4/Sub.2/AC.5/2001/CRP.7	Sri Lanka National Review: study submitted by the International Centre for Ethnic Studies, Colombo
E/CN.4/Sub.2/AC.5/2001/CRP.8	Reply of the Government of Sri Lanka to the paper (E/CN.4/Sub.2/AC.5/2001/CRP.7) submitted by the International Centre for Ethnic Studies
E/CN.4/Sub.2/AC.5/2001/CRP.9	Appendix to the working paper (E/CN.4/Sub.2/AC.5/2001/WP.6) on integrative approaches to the accommodation of minorities - prepared by Tom Hadden: Professor, The Queen's University of Belfast and Ciarán O Maoláin
E/CN.4/Sub.2/AC.5/2001/CRP.10	Minority Self-Government in Hungary: a framework for cultural autonomy: paper submitted by Mr. Csaba Györffy, Deputy Head of the Department of Human Rights and Minority Law, Ministry of Foreign Affairs, Budapest
E/CN.4/Sub.2/2000/27 and Corr.1	Report of the Working Group on Minorities on its sixth session
E/CN.4/Sub.2/AC.5/1999/WP.4	Towards effective participation of Minorities: proposals of an expert seminar organized by the European Centre for Minority Issues, Flensburg, Germany
E/CN.4/Sub.2/AC.5/1999/WP.6	Universal and regional mechanisms for minority protection, prepared by Mr. Vladimir Kartashkin
E/CN.4/Sub.2/AC.5/1999/WP.8	Database on minorities - feasibility study prepared by the Minority Rights Group, the Centre for Documentation and Information in Europe and the European Centre for Minority Issues
E/CN.4/Sub.2/1999/21	Report of the Working Group on Minorities on its fifth session
E/CN.4/Sub.2/1998/18	Report of the Working Group on Minorities on its fourth session



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Item 6 of the provisional agenda

OTHER ISSUES

Note by the Secretary-General

1. Pursuant to Sub-Commission resolution 5 (XIV), the present note reviews developments between 1 June 2000 and 1 June 2001 in fields with which the Sub-Commission has been previously concerned. It supplements those questions which are dealt with in the annotations to the provisional agenda for the fifty-third session of the Sub-Commission (E/CN.4/Sub.2/2001/1/Add.1).

I. INTERNATIONAL COVENANTS ON HUMAN RIGHTS

2. As at 1 June 2001, 145 States had ratified, acceded or succeeded to the International Covenant on Economic, Social and Cultural Rights. As at the same date, 148 States had ratified, acceded or succeeded to the International Covenant on Civil and Political Rights, 98 States had ratified or acceded to the Optional Protocol to the latter Covenant and 45 States had ratified or acceded to the Second Optional Protocol aiming at the abolition of the death penalty. With respect to article 41, paragraph 1, of the International Covenant on Civil and Political Rights, 47 States had made the declaration envisaged under that provision of the Covenant.

Human Rights Committee

3. At its sixty-ninth, seventieth and seventy-first sessions, held in July and October/November 2000 and March 2001, respectively, the Committee considered 14 reports submitted by States parties under article 40 of the International Covenant on Civil and Political Rights.

4. At the three sessions, the Committee also adopted 21 views under article 5, paragraph 4, of the Optional Protocol to the Covenant, 2 decisions declaring complaints admissible and 14 decisions declaring complaints inadmissible. Nine cases were discontinued without a formal decision.

5. A report on the Committee's sixty-seventh to sixty-ninth sessions was submitted to the General Assembly at its fifty-fifth session (A/55/40) and a report on its seventieth to seventy-second sessions will be submitted to the General Assembly following the Committee's seventy-second session in July 2001.

Committee on Economic, Social and Cultural Rights

6. At its twenty-third (extraordinary), twenty-fourth and twenty-fifth sessions, held in August/September 2000, November/December 2000 and April/May 2001, respectively, the Committee considered reports submitted by 14 States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, as well as the situation in one country in the absence of a report from that State party. The Committee subsequently adopted its concluding observations thereon.

7. During its twenty-fourth session, on 27 November 2000, the Committee held its day of general discussion, organized in cooperation with the World Intellectual Property Organization (WIPO), on the "right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author" (article 15 (1) (c) of the Covenant). In that connection, the Committee had before it a discussion paper prepared by Dr. Audrey Chapman (E/C.12/2000/12) and background documents submitted by specialized agencies, United Nations programmes and individual experts (E/C.12/2000/13-19). The day of general discussion was attended by representatives of interested intergovernmental and non-governmental organizations, academic institutions and individual experts, who participated actively in the discussion. The Committee particularly appreciated the cooperation of WIPO and the active participation in the discussion of UNESCO and the World Trade Organization. The Committee decided, as a follow-up to the discussion, to commence the drafting of a general comment on article 15 (1) (c).

8. At its twenty-fifth session, on 7 May 2001, the Committee held an "International consultation on economic, social and cultural rights in development activities of international institutions" organized in cooperation with the High Council for International Cooperation of France, in which high-level representatives of relevant international institutions and agencies participated. The High Council was represented by its President, Jean-Louis Bianco. Also participating were Juan Somavia, Director-General of the International Labour Organization; Rubens Ricupero, Secretary-General of the United Nations Conference on Trade and Development and Bertrand Ramcharan, Deputy High Commissioner for Human Rights (documents E/C.12/2001/4-9; E/C.12/2001/WP.1-3; E/C.12/2001/SR.21 and 22).

9. Also at its twenty-fifth session, the Committee adopted a "Statement on poverty and the International Covenant on Economic, Social and Cultural Rights" (E/C.12/2001/10), which was submitted as the Committee's contribution to the Third United Nations Conference on Least Developed Countries held in Brussels from 14 to 20 May 2001.

10. The Committee's report on its twenty-second to twenty-fourth sessions (E/2000/22) will be before the Economic and Social Council at its substantive session of 2001 in July.

II. INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

11. As at 22 May 2001, 157 States had adhered to the International Convention on the Elimination of All Forms of Racial Discrimination. Thirty-three States parties had made the declaration under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of violation by those States parties of any of the rights set forth in the Convention.

Committee on the Elimination of Racial Discrimination

12. During its fifty-seventh and fifty-eighth sessions, held in August 2000 and March 2001, respectively, the Committee considered reports submitted by 23 States parties to the Convention. Additionally, the Committee reviewed the application of the Convention in three States parties whose reports were seriously overdue.

13. The Committee discussed the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance at each of its sessions. Prior to its fifty-eighth session, the Committee finalized its written contribution for the World Conference (A/CONF.189/PC.1/13). During its fifty-eighth session, the Committee developed a set of targeted measures for proposed inclusion in the draft declaration and programme of action of the World Conference and discussed the nature and extent of the Committee members' participation at the second session of the Preparatory Committee in May 2001, and at the Conference itself.

General Assembly

14. A report on the Committee's fifty-sixth and fifty-seventh sessions was submitted to the General Assembly at its fifty-fifth session (A/55/18) and a report on the Committee's fifty-eighth and fifty-ninth sessions will be submitted to the General Assembly at its fifty-sixth session following the Committee's fifty-ninth session in August 2001.

Commission on Human Rights

15. At its fifty-seventh session, the Commission on Human Rights adopted resolution 2001/5 of 18 April 2001, in which it addressed, *inter alia*, the International Convention on the Elimination of Racial Discrimination. The Commission on Human Rights appealed to States that had not yet done so to consider ratifying or acceding to the Convention; recommended that the issue of universal ratification of the Convention, as well as reservations thereto, and the competence of the Committee on the Elimination of Racial Discrimination to receive individual complaints be considered at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; called upon States parties that had not submitted initial or periodic reports in accordance with article 9 of the Convention to do so; urged States parties to limit the extent of any reservations they lodged to the Convention; called upon States parties to the Convention to adopt immediately positive measures aimed at the elimination of all forms of

racial discrimination, xenophobia and related intolerance; requested the States parties to the Convention to consider the possibility of making the declaration provided for in article 14 of the Convention; and invited States parties to ratify the amendment to article 8 of the Convention dealing with the financing of the Committee.

16. The Commission on Human Rights again invited the Committee on the Elimination of Racial Discrimination to participate actively in the preparatory process for the World Conference.

III. CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

17. As at 15 May 2001, the Convention had been ratified or acceded to by 124 States.

Committee against Torture

18. The Committee against Torture submitted a report on its twenty-third and twenty-fourth sessions to the General Assembly at its fifty-fifth session (A/55/44). At its twenty-fifth and twenty-sixth sessions, held in November 2000 and April/May 2001, respectively, the Committee considered 14 reports submitted by States parties under article 19 of the Convention. It also continued in closed meeting its activities under article 20 (inquiries) and 22 (individual communications) of the Convention. The Committee will include a summary account of the results of the proceedings relating to an inquiry in its report to the General Assembly at its fifty-sixth session. Furthermore, at its two sessions, the Committee considered a total of 19 communications. It took decisions to declare 2 communications admissible and 1 inadmissible. In addition, the Committee suspended consideration of 2 communications, adopted views in respect of 11 communications and discontinued 3 communications. Information on the Committee's twenty-fifth and twenty-sixth sessions will be contained in the annual report to the General Assembly at its fifty-sixth session referred to above.

IV. CONVENTION ON THE RIGHTS OF THE CHILD

19. As at 15 May 2001, the Convention on the Rights of the Child had been ratified or acceded to by 191 States. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict had been ratified by 4 States parties, and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography by 3 States.

20. At its twenty-fifth, twenty-sixth and twenty-seventh sessions, held in September/October 2000, January 2001 and May/June 2001, respectively, the Committee considered 21 initial and 6 periodic reports submitted under article 44 of the Convention on the Rights of the Child.

21. At its twenty-fifth session, the Committee held a discussion day on the theme "State violence against children". The High Commissioner for Human Rights opened the meeting which was also attended by a representative of the Committee against Torture and the Special Rapporteur on torture of the Commission on Human Rights. Representatives of States parties,

United Nations bodies, specialized agencies and other competent bodies, including non-governmental organizations, contributed to the discussion and provided expert advice.

General Assembly

22. At its fifty-fifth session, the General Assembly, in its resolution 55/79, inter alia, requested the Secretary-General to submit to the Assembly at its fifty-sixth session a report on the rights of the child, containing information on the status of the Convention and the problems addressed in the resolution which addressed, among other things, the protection and promotion of the rights of children, including children in particularly vulnerable situations, discrimination against children, the prevention and eradication of the sale of children and of their sexual exploitation and abuse, including child prostitution and child pornography, the protection of children affected by armed conflict, and the progressive elimination of child labour.

Commission on Human Rights

23. The Commission, at its fifty-seventh session, adopted resolution 2001/75 on the rights of the child, in which it addressed the implementation of the Convention on the Rights of the Child and other instruments; protection and promotion of the rights of the child, including such issues as identity, family relations and birth registration, health, education and freedom from violence; non-discrimination, including with respect to the girl child, children with disabilities and migrant children; protection and promotion of the rights of children in particularly difficult situations, including children working and/or living on the streets, refugee and internally displaced children, child labourers and children alleged to have or recognized as having infringed penal law; prevention and eradication of the sale of children, child prostitution and child pornography; protection of children affected by armed conflict; recovery and social reintegration.

V. EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS OF STATES PARTIES TO THE UNITED NATIONS INSTRUMENTS IN THE FIELD OF HUMAN RIGHTS

24. The chairpersons of the human rights treaty bodies held their twelfth annual meeting in June 2000 at the United Nations Office at Geneva. The report of this meeting, containing the suggestions and recommendations of the chairpersons, was submitted to the General Assembly at its fifty-fifth session (A/55/206).

25. The thirteenth annual meeting will be held from 18 to 22 June 2001 at Geneva. The Chairperson of the Sub-Commission has been invited to present the recent developments in the work of the Sub-Commission that are relevant to the work of the treaty bodies and to discuss possible areas of cooperation. In addition, the chairpersons will discuss a wide range of issues related to their functioning and coordination, including with representatives of States, United Nations agencies, funds and programmes, and non-governmental organizations. They will also hold a joint meeting with the mandate-holders of special procedures of the Commission on Human Rights which, pursuant to the decision of the last joint meeting, will focus on the topic

of follow-up to the recommendations of treaty bodies and of special procedures. The report of the thirteenth annual meeting of the chairpersons of the human rights treaty bodies will be submitted to the General Assembly at its fifty-seventh session.

General Assembly

26. In its resolution 55/90, the General Assembly, inter alia, welcomed the submission of the reports of the chairpersons of the human rights treaty bodies on their 11th and 12th meetings and took note of their conclusions and recommendations; welcomed the plans of action prepared by the High Commissioner for Human Rights to enhance the resources available to all the treaty bodies and encouraged all Governments, agencies and organizations to consider contributing to the appeal for extrabudgetary resources for the treaty bodies until regular budget funding could meet their needs; encouraged the Secretary-General, the treaty bodies and the chairpersons to continue to examine ways of reducing the duplication of reporting required under the different instruments, without impairing the quality of reporting, and of generally reducing the reporting burden on States parties, including through an ongoing examination of proposals for reports focused on a limited range of issues, the harmonization of the general guidelines regarding the form and content of reports, the possibility of consolidating overdue reports, the timing of consideration of reports and the methods of work of the treaty bodies; and called upon the Secretary-General to complete as soon as possible the detailed analytical study comparing the provisions of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is being prepared with a view to identifying duplication of reporting required under those instruments.

27. In accordance with its resolution 55/90, the General Assembly will consider the question of effective implementation of international instruments on human rights on a priority basis at its fifty-seventh session.

Commission on Human Rights

28. In its resolution 2000/75, entitled "Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights", the Commission requested the Secretary-General to report to the Commission at its fifty-eighth session on measures taken to implement the resolution and obstacles to its implementation, and on measures taken or planned to ensure financing and adequate staff and information resources for the effective operation of the human rights treaty bodies. The Commission decided to consider this question on a priority basis at its fifty-eighth session.

**VI. INTERNATIONAL CONVENTION ON THE PROTECTION
OF THE RIGHTS OF ALL MIGRANT WORKERS AND
MEMBERS OF THEIR FAMILIES**

29. The Convention, which was adopted by the General Assembly in 1990 (resolution 45/158), will enter into force when 20 States have ratified or acceded to it. As at 1 June 2001, 16 States (Azerbaijan, Bolivia, Bosnia and Herzegovina, Cape Verde, Colombia, Egypt, Ghana, Guinea, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Uganda and Uruguay) had ratified or acceded to the Convention and 10 other States (Bangladesh, Chile, Comoros, Guatemala, Guinea-Bissau, Paraguay, Sao Tome and Principe, Sierra Leone, Tajikistan and Turkey) had signed it.

30. In its resolution 55/88, the General Assembly called upon all Member States to consider signing and ratifying or acceding to the Convention as a matter of priority and expressed the hope that the Convention would enter into force at an early date; requested the Secretary-General to provide all facilities and assistance necessary for the promotion of the Convention, through the World Public Information Campaign on Human Rights and the programme of advisory services in the field of human rights; and welcomed the work of the Special Rapporteur on the human rights of migrants of the Commission on Human Rights in relation to the Convention and encouraged her to continue in that endeavour.

31. The Commission on Human Rights, at its fifty-seventh session, adopted a similar resolution (2001/53).



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Items 3, 4 and 5 of the provisional agenda

ADMINISTRATION OF JUSTICE

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**PREVENTION OF DISCRIMINATION AND PROTECTION
OF INDIGENOUS PEOPLES AND MINORITIES**

Memorandum submitted by the International Labour Office

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Introduction

1. The present memorandum submitted by the International Labour Office to the fifty-third session of the Sub-Commission for the Promotion and Protection of Human Rights contains general information on the ILO activities related to human rights, as well as specific points on issues of relevance to items 3, 4 and 5 of the provisional agenda. The ILO is working for the protection and promotion of fundamental rights and freedoms in a number of areas through standard setting, its supervisory system, technical assistance and policy advice.
2. The purpose of the memorandum is to draw the Sub-Commission's attention to a number of ILO activities, to inform its considerations and to facilitate its work. Naturally, a selection of the most pertinent and recent developments had to be made. The memorandum is part of the ILO's commitment to engage in an active partnership with the United Nations on human rights matters. It hopes that the memorandum will be a useful tool to the members of the Sub-Commission, observers and non-governmental organizations, serving as a source of information as well as a reference guide.

I. GENERAL INFORMATION

A. The ILO Declaration on Fundamental Principles and Rights at Work

3. At its 86th session (June 1998) the International Labour Conference adopted the ILO Declaration on Fundamental Principles and Rights at Work, and its Follow-up. The Declaration is intended to reaffirm the commitment of all member States of the ILO to the fundamental principles and rights which are incumbent on all countries by the very fact of their membership in the Organization, even if they have not yet been able to ratify the corresponding conventions. These principles are: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect to employment and occupation. The Follow-up to the Declaration is promotional in nature and its purpose is to encourage member States to promote fundamental principles and rights at work. It involves a review of annual reports, a global report and conclusions about technical cooperation priorities.
4. Reporting under the Declaration is based upon the constitutional obligation of member States to provide reports on the position of their law and practice in relation to Conventions they have not ratified (ILO Constitution, art. 19 (5) (e)). The Follow-up provides an opportunity to review the efforts made in accordance with the Declaration by member States which have not yet ratified all the fundamental Conventions. The annual reports of member States are compiled by the International Labour Office and subsequently reviewed by a group of Expert-Advisers, whom the Governing Body appointed in November 1999. The Governing Body then reviews the compilation of annual reports accompanied by an analytic introduction by the Expert-Advisers. The results of this review are to be taken into account when finalizing the global report.
5. Global reports are being prepared each year on the principles concerning the fundamental rights contained in the Declaration. The first global report in 2000 focused on freedom of association and collective bargaining, while the 2001 global report was dedicated to the issue of

forced labour.¹ The latter report shows that forced labour in various forms continues to be a serious concern around the globe. It addresses, *inter alia*, forced labour practices in public works, in agriculture and rural areas, the situation of domestic workers, as well as questions related to bonded labour and trafficking. The global reports in 2001 and 2003 will deal with child labour and non-discrimination respectively, and in 2004 the rotation will begin again.

6. After the Global Reports are discussed in the ILO Conference, the Governing Body at each November session draws up and adopts a plan of action for ILO technical assistance to assist the countries in implementing the principles covered in that year's global report. Assistance on the Declaration has included a variety of activities such as national seminars, translations of the ILO Declaration into national languages and assistance to prepare the annual reports. As a result of this year's discussion of the Global Report on Forced Labour the International Labour Office proposes, *inter alia*, to establish a special programme on labour.

B. Adoption of new conventions

1. The Maternity Protection Convention, 2000 (No. 183)

7. The International Labour Conference, taking into account the circumstances of women workers and the need to provide protection for pregnancy and maternity, adopted at its 88th session (June 2000) the Maternity Protection Convention (No. 183) which revises the Maternity Protection Convention (Revised), 1952 (No. 103). The Convention applies to all employed women without discrimination, including those in atypical forms of dependent work.

8. The Convention provides that each member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child. Under the Convention, women shall be entitled to a period of maternity leave of not less than 14 weeks. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the Government and the representative organizations of employers and workers.

9. The Convention further states that cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on maternity leave or leave in case of illness or complications. Under the Convention it is unlawful for employers to terminate the employment of a woman during her pregnancy or absence on leave, or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences, or nursing. In this respect it is important to note that the Convention places on the employer the burden of proof that the reasons of dismissal are unrelated. Women are guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of maternity leave. Each member is obliged to adopt measures to ensure that maternity does not constitute a source of discrimination in employment. Pregnancy tests or certificates of such tests when a woman is applying for employment are specifically prohibited.

2. The Safety and Health in Agriculture Convention, 2001 (No. 184)

10. Most recently, the International Labour Conference adopted at its 89th session (June 2001) the Safety and Health in Agriculture Convention (No. 184) and an accompanying Recommendation No. 192. The instruments were adopted against the background of estimates that about half of the world's annual 1.2 million occupational fatalities occurred in agriculture. The issues covered by the Convention and the Recommendation have a direct bearing on the enjoyment of agricultural workers of their right to just and favourable working conditions, which includes aspects of safety and health, as recognized, for example under article 23 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Economic, Social and Cultural Rights.

11. The standard-setting process had to deal with aspects that made the preparation of a Convention dealing with agriculture more problematic than those dealing with other sectors. These included the fact that agricultural technology varies widely, as well as the fact that much agriculture is still in the informal sector, with only an estimated 5 per cent of agricultural workers worldwide subject to supervision by labour inspectorates and having some legal protection. The scope of the Convention encompasses four main areas: crop production; animal and insect breeding; primary processing of agricultural and animal products; and use of appliances, tools, machinery, etc. It excludes subsistence farming, agro-industries, forest industries and certain undertakings and categories of workers to be determined after tripartite consultation.

12. Under the Convention, members shall formulate, carry out and periodically review a coherent national policy on safety and health in agriculture. This policy shall have the aim of preventing accidents and injury to health arising out of, linked with, or occurring in the course of work by eliminating, minimizing or controlling hazards in the agricultural working environment. The Convention places on the employer the duty to ensure the safety and health of workers in every aspect related to the work, insofar as compatible with national laws and regulations. The minimum age for assignment to work in agriculture which, by its nature or the circumstances in which it is carried out, is likely to harm the safety and health of young persons, shall generally not be less than 18 years. Workers in agriculture shall have the right to be informed and consulted on safety and health matters, including risks from new technologies, and to participate in the application and review of safety and health measures.

C. Ongoing standard setting

Promotion of cooperatives

13. In March 1999, at its 274th session, the Governing Body decided to include in the agenda of the 89th session (2001) of the International Labour Conference the question of the promotion of cooperatives, with a view to adopting a revised standard in the year 2002. The promotion of cooperatives contributes to the realization of economic, social and cultural rights, as well as the right to development. Cooperatives are known to be schools of participation, which is a concept of major importance contained in the 1986 Declaration on the Right to Development and the 1993 Vienna Declaration and Programme of Action.

14. A number of international labour standards make direct or indirect reference to cooperatives, but the only comprehensive international standard on cooperatives is the Cooperatives (Developing Countries) Recommendation, 1966 (No. 127). Accordingly, the International Labour Office prepared a report to the International Labour Conference in June 2001 containing an introduction to the question, an examination of the changing environment of cooperatives in developing, transition and industrialized countries, and an analysis of the prerequisites for success in the promotion of cooperatives based on the law and practice in various countries.² The report highlights the advantages to nations of having strong cooperatives as one of a variety of forms of private sector organization, and their ability to play a constructive role in both economic life and within civil society - not least, their potential to generate and sustain employment, to support entrepreneurship and wealth creation and to provide much-needed social services in the face of the reduced capacity of the State to do so. The report concludes that Recommendation No. 127 should be revised to provide an appropriate framework for promotion of cooperatives in the twenty-first century which is universal in its application, emphasizes the position of cooperatives as privately owned member-controlled organizations, and recognizes their need to function within a competitive environment and to sustain their identity, having a distinctive role both as economic enterprises and within civil society.

15. Having discussed the report, and taking into consideration the replies to the questionnaire that had been sent to Governments, the International Labour Conference decided that a new Recommendation of universal character on the promotion of cooperatives should be adopted at its session in 2002. The instrument should, inter alia, encourage the promotion and strengthening of the identity of cooperatives based upon cooperative values of self-help, self-responsibility, democracy, equality, equity and solidarity, as well as internationally recognized cooperative principles of voluntary and open membership, democratic member control, member economic participation, autonomy and independence, education, training and information, cooperation among cooperatives, and concern for community. Further, it was decided that the new Recommendation should provide that member States should adopt measures to promote the potential of cooperatives in all countries, irrespective of their level of development, to assist their membership to: (a) create and develop income-generating activities and sustainable decent employment; (b) develop human resource capacities and knowledge of the values of the cooperative movement through education and training; (c) gain access to markets and to institutional finance; (d) increase savings and investment; and (e) improve social and economic well-being, taking into account the need to eliminate all forms of discrimination. Another feature of the instrument will be that States should provide a supportive policy and legal framework and take appropriate measures to facilitate international cooperation.

D. Ratification of ILO conventions

16. The trend towards increased ratification of ILO conventions is continuing. In particular, there has been a large number of ratifications of conventions on subjects relating to concerns of the Sub-Commission. This has partly been the result of the ratification campaign launched by the Director-General following the World Summit for Social Development (Copenhagen, 1995) for the eight fundamental human rights Conventions of the ILO (Nos. 29 and 105 concerning forced labour, Nos. 87 and 98 on freedom of association and collective bargaining, Nos. 100 and 111 on discrimination, and Nos. 138 and 182 on child labour). The ILO Area Offices and multidisciplinary teams in the field follow up Governments' indications on ratifications, and

assistance in overcoming obstacles to ratification is made available. The table below summarizes the ratifications as of 21 June 2001 of those among the 184 ILO conventions which are of special relevance for human rights,³ while countries having ratified since the last report⁴ are listed in the annex:

<u>Convention</u>	<u>Total ratifications</u>	<u>Since last report</u>
<u>Forced Labour</u>		
No. 29	158	8
No. 105	154	14
<u>Discrimination</u>		
No. 100	153	13
No. 111	149	12
No. 156	33	5
<u>Freedom of Association</u>		
No. 87	136	13
No. 98	149	9
<u>Migrant Workers</u>		
No. 97	41	-
No. 143	18	-
<u>Indigenous and Tribal Peoples</u>		
No. 107	27	No longer open for ratification
No. 169	14	1
<u>Minimum Age</u>		
No. 138	109	33
No. 182	82	82
<u>Vocational Rehabilitation</u>		
No. 159	73	8

17. In addition, the various promotional efforts within the framework of the Director-General's ratification campaign and the technical assistance provided by the multidisciplinary advisory teams working closely with the regional offices and the relevant headquarters units have resulted in a large number of other ratifications being undertaken or examined by the competent national authorities. The establishment of the Infocus Programme to Promote the Declaration on Fundamental Principles and Rights At Work also had a positive impact on the number of ratifications of fundamental human rights conventions.

E. Application by Myanmar of the Forced Labour Convention, 1930 (No. 29)

18. For some years the ILO has been following the application by Myanmar of this fundamental Convention. After the conclusion of a Commission of Inquiry in 1998, the Conference decided at its 88th session (2000) to apply article 33 of the Constitution which allows it to take "such measures as it may deem wise and expedient" to secure the observance of the recommendations of the Commission of Inquiry. This is the first time the ILO has found it necessary to apply this article.

19. One of the measures envisaged was to hold a special sitting of the Application of Standards Committee of the Conference at the 2001 session. The Conference welcomed the decision by the Government of Myanmar to resume cooperation with the ILO, and noted the conclusion of an understanding in May 2001 to send a "High-Level Team" to Myanmar to conduct an objective assessment of the situation of forced labour in that country. The Committee insisted that the High-Level Team, whose members are to be chosen by the ILO Director-General, be provided with sufficient authority to programme its activities while in Myanmar, including the right to carry out its investigation in all parts of the country and with unrestricted access to all necessary sources of information. It also added that "those people who provided information to the Team must enjoy full social protection". The Team will report to the ILO Governing Body, which meets in November. The Government of Myanmar has promised freedom of movement, access to people, and protection of witnesses.

F. Collaboration with the United Nations and other international organizations

20. The ILO considers relationships and collaboration with the United Nations system, the Bretton Woods institutions, and other regional and international organizations of critical importance. The Director-General of the ILO has called for global partnerships that are substantive and task oriented. In the field of human rights, the ILO has continued to collaborate with other international organizations on issues such as freedom of association, discrimination in employment and occupation, equal opportunities of men and women in employment, indigenous and tribal peoples, migrant workers, forced labour, child labour, and other questions falling within the mandate of ILO.

21. ILO regularly takes an active part in the Commission on Human Rights and in the Sub-Commission on Promotion and Protection of Human Rights, including the Sub-Commission's working groups on indigenous populations, on minorities, on contemporary forms of slavery, and on the right to development. The ILO's presence and active involvement in these forums aims at providing information about relevant ILO activities, substantial input in the debate, as well as offering, as appropriate, specialized expertise in areas falling within the ILO's mandate. The ILO cooperates with various thematic and country-specific mandates of the Commission on Human Rights. It has recently made contact with the newly appointed Special Representative of the Secretary-General on human rights defenders in order to discuss future cooperation as regards trade unionists.

22. The ILO also continued to work closely with the various treaty bodies established to supervise United Nations human rights instruments, in particular the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child. ILO's contribution to the work of the treaty bodies has the objective of ensuring coherence between United Nations treaty bodies and the supervisory bodies of the ILO. Indeed, the Committee of Experts increasingly makes reference in its comments to reports submitted by Governments to United Nations treaty bodies and findings and recommendations made by them. In the field of economic, social and cultural rights, ILO standards and the experience acquired in their supervision are most relevant in further defining the content of related United Nations standards and in applying the concept of progressive realization of these rights. The body of experience built up by the Committee of Freedom on Association is a valuable and authoritative source. In addition to the systematic submission of written reports containing information from the ILO's supervisory system on countries under examination, the ILO regularly briefs these United Nations committees on work-related issues and participates in the meeting of the chairpersons of the treaty bodies and other initiatives. Constant efforts are made to strengthen coordination and collaboration between the ILO and the treaty bodies. At the most recent meeting of chairpersons, the ILO undertook to enhance further awareness and use of the treaty body's conclusions and recommendations within the ILO, in particular at the field level, and vice versa.

23. The ILO has continued its efforts to maintain a constructive synergy between its work and the activities of the Office of the High Commissioner for Human Rights, a synergy that is to be pursued in accordance with a specific decision to this effect taken by the Governing Body. Workshops on the application of international human rights instruments and joint briefing sessions with other United Nations agencies for country or thematic rapporteurs have been organized. The ILO has also been called upon to supply a large amount of information on specific themes and various countries to the United Nations High Commissioner for Human Rights to assist her in fulfilling her mandate. The Office has recently participated in the inter-agency follow-up meeting on the fifty-seventh session of the Commission on Human Rights convened by the Office of the High Commissioner in June 2001.

24. The ILO is an active partner in the inter-agency consultations on the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Together with the International Organization for Migration (IOM), the Office of the United Nations High Commissioner for Refugees (UNHCR), and the Office of the High Commissioner for Human Rights, the ILO is preparing a resource book on racism, xenophobia, migration and refugees to be presented at the World Conference. A series of workshops on discrimination in the world of work are being jointly organized with the Office of the High Commissioner, both in the lead-up to Durban and during the Conference. In addition to the ongoing collaboration with the Office of the High Commissioner on indigenous issues within the framework of the International Decade of the World's Indigenous People (1995-2004), the ILO also participates in an inter-agency effort to prepare for the launching of the Permanent Forum on Indigenous Affairs in 2002. Further, the ILO is a member of the intergovernmental organization contact group on trafficking, bringing together ILO, UNHCHR, IOM and the Office of the High Commissioner for Human Rights.

25. The ILO participated in the twenty-fourth special session of the United Nations General Assembly, entitled "World Summit for Social Development and Beyond: Achieving Social Development for All in a Globalizing World", which was held in Geneva from 26 June to 1 July 2000 (Copenhagen+5). The ILO was also strongly involved in the twenty-third special session of the United Nations General Assembly, entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century", which was held in New York from 5 to 9 June 2000, as well as the preparatory process for it. The agreed text calls, *inter alia*, for the respect, promotion and realization of the principles contained in the ILO Declaration on Fundamental Principles and Rights at Work and asks Member States to strongly consider ratification and full implementation of ILO Conventions which are particularly relevant to ensuring women's rights at work. The ILO continues to cooperate with the relevant parts of the United Nations to make further progress in the implementation of the Platform for Action agreed at the Fourth World Conference on Women (Beijing, 1995) and the outcome of the World Summit for Social Development.

26. The ILO is working with the Bretton Woods institutions to build the goals of employment and decent work into country-level poverty reduction strategies and is strongly involved in the United Nations Secretary-General's Global Compact initiative. Another critical alliance is the United Nations Policy Network on Youth Employment, a partnership between the United Nations, the World Bank and the ILO, to determine what works in combating youth unemployment. The ILO collaborates with the United Nations Conference on Trade and Development (UNCTAD) on making employment part of the strategy for the least developed countries, with UNICEF on child labour, with several United Nations bodies on crisis response and reconstruction, with the World Health Organization (WHO) on safe work, with UNAIDS on the code of practice on HIV/AIDS in the world of work, and with the United Nations Development Programme (UNDP) and the United Nations Development Fund for Women (UNIFEM) on microfinance. At the country level, the ILO is active in the United Nations Development Assistance Framework (UNDAF) to ensure that its constituents' priorities are effectively pursued through substantive partnerships for development cooperation.

II. ADMINISTRATION OF JUSTICE (ITEM 3)

Privatization of prisons and prison labour

27. Having in mind that the Sub-Commission has previously discussed the issue of the privatization of prisons, it should be noted that the Committee of Experts, in its general report to the 2001 International Labour Conference, included a section on the privatization of prisons and prison labour in respect to the application of the Forced Labour Convention, 1930 (No. 29).⁵ This provides a useful guide as to how Convention No. 29 should be applied, for the benefit of those member States which have ratified the Convention and for those contemplating doing so.

28. The Committee had stated earlier in relation to article 2 (2) (c) of Convention No. 29 that the question of prisoners being, in the words of the Convention, "hired to or placed at the disposal of private individuals, companies or associations" merited fresh attention. In its general observation of 1999, the Committee had asked Governments to include in their next reports information as to the present position in law and practice on whether there are prisons administered by private concerns, profit-making or otherwise; and whether any private prison

contractors deploy prisoners to work either inside or outside prison premises, either for the account of the contractor or for that of another enterprise. The Committee also had asked a certain number of questions concerning the conditions under which such arrangements operated, where they existed. In the absence of a sufficient number of responses, the Committee analysed in its general report earlier discussions of the Conference Committee on the Application of Conventions and Recommendation as well as the application of the relevant provisions of Convention No. 29 to the issue of private prisons and the use of prison labour by private companies.

29. The Committee was fully aware that there is a trend in some countries towards increased use of privatized prison labour, often based on a perceived need for the Governments to generate income to cover the costs of a growing prison population, or in a sincere attempt to provide skills for the purposes of rehabilitation, or even to provide sources of income for prisoners from which family expenses of prisoners or restitution for victims can be drawn. In the view of the Committee, it is fully possible for countries to apply Convention No. 29 when designing or implementing a system of privatized labour, but they must do so on the understanding that such involvement carries with it additional requirements and the need for a thorough analysis. There was a need to protect a captive workforce who are increasingly working in direct competition with a free labour market, and a need to avoid unfair competition with free workers. Clearly, the fact that they had been convicted of crimes did not mean that prisoners should not have rights otherwise available to citizens, even less so when they are employed in productive work for private employers. Issues of voluntariness, including consent and conditions which approximate free labour, would continue to be matters which require careful consideration by States in attempting to reconcile the various imperatives in their own particular context. The issue was discussed at length during the 2001 session of the International Labour Conference.

III. ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ITEM 4)

A. Globalization

30. In order to better reflect the real direction in which its mandate had evolved, the Governing Body decided in March 2000 to rename the Working Party on Social Dimensions and of the Liberalization of Trade as the Working Party on the Social Dimensions of Globalization. It was understood that this concept covers, *inter alia*, the liberalization of trade, which was the original purpose for establishing the Working Party. In the discussion in the Governing Body emphasis was placed on the advantages offered by the Working Party in order to promote an integrated approach between the ILO and the rest of the international community dealing with the interaction of economic and social issues within the globalization process. It was stressed that the ILO should take this issue forward based on comparative advantages, particularly its knowledge base and its tripartite structure. Indeed, the Working Party is well placed to develop further knowledge, to prepare and discuss policy positions, and to work on consensus-building, while promoting understanding between the various international institutions dealing with matters related to the issue.

31. In November 2000, the Working Party discussed the role of freedom of association and collective bargaining in a globalizing world.⁶ At its June 2001 session the Working Party discussed means of enhancing its action. The background report prepared by the Office stated that addressing the social dimensions of globalization requires measures both at the national and international level. More inclusive, transparent and participatory international decision-making was required to ensure that the benefits of globalization are accessible to all on an equal basis. To make globalization fully inclusive and equitable, it was essential to adopt policies and measures at the global level which correspond to the needs of the developing countries and are formulated and implemented with their effective participation.⁷

32. The Governing Body decided to take certain measures to enhance the Working Party's technical capability, and that the Working Party would hold high-level meetings on an ad hoc basis in the future. A first high-level meeting was held in March 2001, with the participation of the Secretary-General of UNCTAD and the United Nations High Commissioner for Refugees. Further, the Director-General was authorized to proceed with consultations on the establishment of a commission of eminent personalities with outstanding knowledge and experience of the social dimensions of globalization which will be charged with drawing up a major, authoritative report that makes a comprehensive in-depth analysis of the social dimensions of globalization, particularly the interaction between the global economy and the world of work.

B. The right to social security

33. International instruments adopted by the ILO and the United Nations affirm that every human being has the right to social security. In the Declaration of Philadelphia (1944) the International Labour Conference recognized the ILO's obligation as regards "the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care". The ILO's Income Security Recommendation, 1944 (No. 67), provides that "social insurance should afford protection, in the contingencies to which they are exposed, to all employed and self-employed persons, together with their dependants" (para. 17). The Universal Declaration of Human Rights, 1948, states that "everyone, as a member of society, has the right to social security ..." (art. 22), and refers specifically to the right to medical care and necessary social services, to security in the event of sickness, disability, widowhood, old age and unemployment, and to special care and assistance for motherhood and childhood (art. 25). The International Covenant on Economic, Social and Cultural Rights, 1966, recognizes "the right of everyone to social security, including social insurance" (art. 9).

34. The Committee of Experts, commenting on the application of the ILO Conventions on social security, stated in its 2001 general report that international labour standards on social security help materialize the aspiration, set forth in the Universal Declaration of Human Rights, that the fundamental human right to social security will be protected by the rule of law. The Conventions are aimed at providing the broadest possible protection in terms of personal coverage, risk coverage and adequate level of compensation. They aim to strengthen social cohesion by promoting solidarity between active and non-active members of society, between rich and poor and between present and future generations.

35. Based on a 1999 decision of the Governing Body, the International Labour Conference held its 2001 general discussion on social security. The objective of this discussion was to strengthen the ILO vision of social security in order to respond to the new issues and challenges facing social security, while continuing to be rooted in the basic principles of the ILO. The report prepared by the International Labour Office for this purpose covered a wide range of key issues to be taken into consideration, including coverage of social protection, gender equality, sustainable financing and the intersection of social security, employment and development.⁸ The Conference affirmed, *inter alia*, that social security was a basic human right and a fundamental means for creating social cohesion, thereby helping to ensure social peace and social inclusion. It was an indispensable part of government social policy and an important tool to prevent and alleviate poverty. It can, through national solidarity and fair burden-sharing, contribute to human dignity, equity and social justice. It was also important for political inclusion, empowerment and the development of democracy.

36. The conclusions adopted by the Conference further state that social security, if properly managed, enhances productivity by providing health care, income security and social services. In conjunction with a growing economy and active labour market policies, it was an instrument for sustainable social and economic development. It facilitates structural and technological changes which require an adaptable and mobile labour force. It was noted that while social security is a cost for enterprises, it is also an investment in, or support for, people. With globalization and structural adjustment policies, social security becomes more necessary than ever. Other conclusions by the Conference dealt with the diversity of models of social security, the role of the State and good governance, and the extension of coverage.

C. Multinational enterprises

37. Through its Multinational Enterprises Department the ILO pursues its objective of widespread observance of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) adopted in 1977 as a framework for action by Governments, workers, employers, and multinational enterprises (MNEs) to address the labour and social benefits and difficulties that may arise in the context of foreign direct investment and the activities of MNEs. The International Labour Office carries out follow-up surveys and responds to requests for interpretation of the MNE Declaration, services the Governing Body Subcommittee on Multinational Enterprises and Social Policy, undertakes promotional activities and research on labour and social areas of MNE activities, and issues publications on current issues in country, regional, sectoral or global contexts. The seventh survey on the effect given to the MNE Declaration was presented to the Governing Body at its March 2001 session.⁹

38. The principles laid down in the MNE Declaration offer guidelines to MNEs, Governments, and employers' and workers' organizations in such areas as employment, training, conditions of work and life, and industrial relations. Its provisions are reinforced by certain international labour conventions and recommendations which the social partners are urged to bear in mind and apply, to the greatest extent possible. The adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up in 1998 highlighted the importance of the fundamental conventions in realizing the objectives of the ILO, and consequently, the MNE Declaration takes into account the objectives of the 1998 Declaration.

39. Today, the prominent role of MNEs in the process of social and economic globalization renders the application of the principles of the MNE Declaration as timely and necessary as they were at the time of adoption. As efforts to attract and boost foreign direct investment gather momentum within and across many parts of the world, the parties concerned have a new opportunity to use the principles of the Declaration as guidelines for enhancing the positive social and labour effects of the operations of MNEs.

IV. PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES AND MINORITIES (ITEM 5)

40. The ILO has a wide range of activities on different aspects of discrimination.

A. Application of conventions concerning discrimination

41. Within the framework of the regular procedures for the supervision of ILO conventions and recommendations, the Committee of Experts on the Application of Conventions and Recommendations addressed a number of comments, which take the form of "observations" and "direct requests", to ratifying States at its November-December 2000 session, which are contained in its report to the 89th session of the International Labour Conference.¹⁰

42. As in previous years, as concerns discrimination in particular, the Committee's comments reflect concerns with regard to the effective implementation of provisions prohibiting gender-based wage discrimination, discrimination in employment and occupation on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, and employment-related discrimination against workers with family responsibilities and migrant workers. The Committee's comments also address issues relevant to discrimination against indigenous and tribal peoples, particularly with respect to their ability to participate effectively in the formulation and implementation of measures that affect them. During the reporting period, Governments continued to seek the assistance of the Office to overcome obstacles to ratification of ILO conventions relevant to discrimination in employment and occupation, as well as to address difficulties in implementing the principles contained in those instruments. As regards the special procedures of the supervisory machinery, it is worth noting that a number of representations have been filed in recent years on the application of Convention No. 169, for the first time. Representations are forms of complaint provided for in the ILO Constitution for allegations that ratified conventions are not being fulfilled. While it is difficult to characterize the problems raised in these representations on too general a basis, they tend to indicate a lack of effective involvement of these peoples in decisions taken at the national level which affect them, in relation particularly to land rights and development issues.¹¹

B. General activities for the prevention of discrimination

43. Numerous regional and subregional tripartite seminars and symposia were carried out during 2000 by the Equality and Employment Branch of the International Labour Standards Department (EGALITE), in collaboration with other programmes, to promote ILO standards on equality of opportunity and treatment in employment and occupation, including: a national seminar on Conventions Nos. 100 and 111 held in Tallinn (April 2000); a tripartite subregional East African seminar for Kenya, the United Republic of Tanzania and Uganda on discrimination

in the world of work in Uganda (April 2000); two national seminars on Convention No. 111 in Yinchuan and Guiyang, China (September 2000); a seminar in Hong Kong on equal remuneration (March 2000); and an intensive training course and seminars in Brasilia (May 2000) for special labour inspection units of the Brazilian Ministry of Labour and Employment, established as the result of a prior ILO project carried out in 1997/98. The course focused on various aspects of discrimination as well as on the development of the mechanisms necessary to enforce the national non-discrimination legislation and to promote the application of ILO standards in Brazil. ILO participated in a subregional meeting for EU accession countries on Convention No. 100 in Malta (September 2000), national seminars on fundamental labour principles and rights in Poland (January 2000) and a national training seminar on women's human rights in Pakistan (May 2000). Further technical assistance on Convention No. 100 was provided to the Czech Republic, Cyprus and Hong Kong Special Administrative Region. A subregional training seminar for judges on discrimination issues for eastern Africa was held in May 2001.

C. Action against HIV/AIDS

44. New ILO data prepared for the United Nations General Assembly special session on HIV/AIDS (25-27 June 2001) shows that at least 23 million workers aged 15-49 - the most productive segment of the labour force - carry the HIV virus. About 17.5 million, or the vast majority, are in 43 African States. Data for other regions of the world show some 3.5 million people with HIV in Asia, 700,000 in North America, 226,000 in the Caribbean, 416,000 in Latin America and 543,000 in Europe.

45. HIV/AIDS is devastating the lives of individuals, their families and communities. In the most affected countries, the epidemic is undermining decades of development gains. Its effects on enterprises and entire national and regional economies are momentous. Discrimination against HIV-positive persons (or even persons suspected of carrying the virus) worsens existing inequalities in society. Screening people for HIV infection in order to bar them from work, deny them promotion or exclude them from social protection and benefits counts as AIDS-related discrimination. So do breaches of confidentiality or the refusal to establish alternative workplace arrangements for workers with HIV/AIDS. Gender inequality - linked to patterns of social, economic and cultural inequality - makes more women vulnerable to infection. As the epidemic spreads, women are faced with the double burden of having to work and cope with the additional responsibilities of providing care and support to family and community members who fall ill.

46. The International Labour Conference adopted at its 88th session in June 2000 a resolution concerning HIV/AIDS and the world of work, requesting member States, employers' and workers' organizations, as well as the Director-General to take a series of measures to address the issue. The Director-General has subsequently established a Programme on HIV/AIDS and the World of Work to coordinate the Office's work on the issue. The Programme aims at strengthening the capacity of Governments and social partners in member States to formulate and implement effectively national action plans on HIV/AIDS through workplace initiatives. Given the multisectoral nature of the problem, HIV/AIDS is to be mainstreamed into all ILO activities. In the global struggle against HIV/AIDS, the ILO is building coalitions and creating partnerships at the international level, particularly with UNAIDS.

47. In June 2001, the ILO adopted a Code of Practice on HIV/AIDS and the World of Work.¹² The Code was subsequently launched by the Director-General at the special session on HIV/AIDS of the United Nations General Assembly. The fundamental aim of the Code is to help safeguard conditions of decent work and protect the rights and dignity of workers and all people living with HIV/AIDS. The Code is intended to help prevent the spread of the epidemic, mitigate its impact on workers and their families, and provide social protection that can help them cope with the disease. The Code provides practical guidance to Governments, employers' and workers' organizations, as well as other stakeholders for developing national and workplace HIV/AIDS policies and programmes. The Code addresses several important issues, including preventing infection through information, education and gender-awareness programmes, and by promoting behaviour change. It covers the protection of workers' rights, including employment protection, gender equality, entitlement to benefits and non-discrimination on the basis of HIV status. It also deals with the challenges of care and support.

48. The Office has prepared a number of publications on HIV/AIDS and the world of work, including most recently a comprehensive report entitled "HIV/AIDS: A threat to decent work, productivity and development", which was discussed at the Special High-Level Meeting on HIV/AIDS and the World of Work during the ILO Conference in June 2000. As regards technical cooperation activities, the Caribbean Area Office has recently carried out fact-finding missions to Jamaica, Suriname and Trinidad and Tobago, which have led to the development of a project proposal to be funded by the United States on the tripartite response to HIV/AIDS in the world of work in the Caribbean, and issues of discrimination are a significant part of the political and legal aspects of the project. A round table was held at the ILO Caribbean Area Office to explore approaches to tackling the spread of the disease and dealing with its impact on work.

D. The situation of Arab workers in the occupied Arab territories

49. At the 89th (2001) session of the International Labour Conference, the constituents of the ILO discussed, in a special sitting, the Director-General's most recent report on the situation of workers of the occupied Arab territories.¹³ Since 1978, through missions sent to Israel and the occupied territories, including the Golan, ILO has been fulfilling its mandate to monitor the situation of Palestinian workers and has documented how their interests and those of Palestinian employers can be improved by the provision of adequate and appropriate technical assistance. This year, a mission representing the Director-General visited Israel and the occupied Arab territories from 26 April to 6 May 2001. Another mission visited the Syrian Arab Republic from 9 to 11 May 2001. The report is based on information collected during these missions and from a variety of sources, including the Government of Israel and the Palestinian Authority, employers' and workers' organizations and various United Nations agencies.

50. The report includes information on the conditions of work and employment of the workers of the occupied Arab territories in such areas as the promotion of employment, equality of opportunity and treatment in employment, access to the labour market, working conditions, social security, poverty alleviation and industrial relations. It indicates that the events since September 2000 have had a tragic impact on the situation of these workers. Closures of the territories and encirclements within them, considerable loss of income and a major increase in employment and poverty had unleashed major crises. Many of the points raised in the report are consequences of the political and military situation prevailing in the region. While this

dimension does not fall within the ILO's area of competence, its repercussions inevitably have a bearing on the social and labour issues within the organization's mandate. The report concluded that the vicious cycle of fear, suspicion and violence had had a dramatic impact on the standard of living of Palestinian workers. It has seriously impaired Palestinian employers' ability to carry out their activities and it has also affected - albeit to a far lesser extent - the productivity of Israeli enterprises of all sizes. The report suggests that addressing the problem from the standpoint of the technical issues of employment and labour may be a way to improve the overall situation. A targeted technical programme by ILO could contribute to alleviating the situation of the Arab populations concerned.

51. Based on numerous consultations, including with employers' and workers' organizations, the Office identified a new generation of projects and prepared 18 project proposals, the vast majority of which responded to the priorities set forth in the Palestinian Development Plan (PDP) for 1999-2003 drafted by the Palestinian Authority. These proposals came under five categories: promotion of employment; social protection; social dialogue; fundamental principles and rights at work; and strengthening gender mainstreaming. They had been welcomed by everyone, including donors. The September 2000 uprising prompted the Office to review its approach to technical cooperation in the Palestinian territories. It reoriented its resource mobilization strategy towards co-financing and strengthening the partnership with financing institutions (notably UNDP and the World Bank) and donor countries.

52. In 2000, the ILO continued to execute a significant technical assistance programme in the West Bank, Gaza and the Palestinian territories, totalling over US\$ 4 million. Projects funded out of extrabudgetary resources in the West Bank and Gaza included the establishment of a vocational rehabilitation centre, funded by the United Arab Emirates. A national seminar on vocational rehabilitation was organized by the Office in Ramallah in December 1999, focusing on formulating a vocational rehabilitation strategy to improve the lives of persons with disabilities under prevailing conditions in Palestinian society. In the West Bank and Gaza, the Regional Office for the Arab States and the Multidisciplinary Advisory Team (MDT) Cairo (ARMAT) provided support to a workshop (August 2000) to develop a strategic action plan for the Ministry of Labour. The workshop clarified the roles and responsibilities of various departments in order to strengthen the capacity of the Ministry of Labour in addressing and promoting gender equality.

53. Further, in response to the emergency situation in the Palestinian territories and by invitation from the Director-General, a tripartite delegation from Palestine visited ILO headquarters in November 2000. The Director-General has provided instructions to set up a task force on emergency employment assistance to the Palestinian territories. Currently, field and headquarters technical units are working jointly to prepare the emergency employment and social rehabilitation technical cooperation programme and to secure funding for its implementation. The report of the Director-General to the 89th International Labour Conference concluded that Palestinian interlocutors gave clear priority to vocational training, whether in the form of assistance for establishing specialized institutions or of emergency programmes in specific sectors.

E. Gender equality

54. Gender is a cross-cutting issue in the ILO's new strategic budgeting approach. The articulation of a gender perspective in the world of work is a crucial objective of the organization. As stated by the Director-General in his 1999 report on Decent Work, building on current activities to promote equality between men and women, the ILO's aim is to examine the economic and social roles of both men and women, and to identify the forces which lead to inequality in different domains. This involves the broadening of the focus of attention from de jure achievement of equality for women to de facto results of economic policies, legislative measures and labour market outcomes for different groups of women and men.

General survey on night work of women in industry

55. The Committee of Experts submitted to the 89th session of the International Labour Conference a general survey on the four ILO instruments covering the area of night work of women. These instruments are the Night Work (Women) Convention, 1919 (No. 4); the Night Work (Women) Convention (Revised), 1934 (No. 41); the Night Work (Women) Convention (Revised), 1948 (No. 89); and the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948. As the Night Work Convention, 1990 (No. 171) is closely related to the issue, the Committee of Experts took it into consideration as well. Convention No. 171 is the latest ILO instrument dealing with the issue of night work. It provides protection to men and women equally, whereas special protection is provided for women in relation to pregnancy and maternity.

56. The survey traces the evolution of ILO standards on night work by women in industry in the last 80 years. From the quasi-absolute prohibition on women's night work laid down in Convention No. 4, to the provisions of the 1990 Protocol allowing for exemptions to the prohibition contained in Convention No. 89, the Committee has examined the ILO's efforts to design international labour instruments on night work by women in industry capable of offering the best guarantees of protection while keeping up with social progress and contemporary thinking on the situation of women in the working world. The Committee observed, in this regard, that the historical development of women's night work as traced in this survey demonstrates that the question of devising measures that aim at protecting women generally because of their gender (as distinct from those aimed at protecting women's reproductive and infant nursing roles) has always been and continues to be controversial. The survey of national practice also revealed that the general trend worldwide is to provide protection for women in night work in a fashion that does not infringe their rights to equality of opportunity and treatment.

57. The Committee concluded that the record shows a clear trend to move away from the approach taken in Conventions Nos. 4, 41 and 89. At the same time, the number of member States whose national legislation continues to conform to the provisions of these Conventions is still significant. The general survey further found that there was no doubt that the present trend was to move away from a blanket ban on night work for women in industry and to give the social partners at the national level the responsibility for determining the extent of the permitted exemptions. It is also evident that more attention is now being paid to regulating night work for both men and women. Many countries - some of which draw upon the technical assistance of

the ILO - are in the process of easing or eliminating legal restrictions on women's employment during the night with the aim of improving women's opportunities in employment and strengthening non-discrimination. The Committee was pleased to note that this trend is not limited to regions or countries which have already reached a certain stage of social or economic development, but often extends to countries where social attitudes and stereotypical views about the position of women in the labour market persist. While expressing its firm hope that such a trend will continue, the Committee considered it necessary to emphasize that a process of revision of existing standards should not result in a legal vacuum with night workers being deprived of any regulatory safeguards. Night work is generally considered to have harmful effects for all workers and calls for a regulatory legal framework.

58. The Committee concluded that Convention No. 89, as revised by the 1990 Protocol, retains its relevance for some countries as a means of protecting those women who need protection from the harmful effects and risks of night work in certain circumstances, while acknowledging the need for flexible and consensual solutions to specific problems and for consistency with modern thinking and principles on maternity protection. The Committee considered it necessary that, in addition to encouraging the ratification of Convention No. 171, greater efforts should be made to help those constituents who are still bound by the provisions of Convention No. 89, and who are not yet ready to ratify Convention No. 171, to realize the advantages of modernizing their legislation in line with the provisions of the Protocol.

Technical cooperation activities

59. During the past biennium, ILO has continued its technical cooperation activities to improve the situation of women workers in a number of regions. The following illustrates some of the activities undertaken with regard to women workers, but gender concerns are also taken into account in all aspects of ILO activities.

60. The ILO Bureau for Gender Equality organized three special events during the special session of the United Nations General Assembly (New York, 5-9 June 2000): Women 2000 - Gender Equality, Development and Peace for the 21st Century: Decent work for women, prepared by the Gender Bureau; Women's empowerment and microfinance, organized by the ILO's Social Finance Unit and co-sponsored by UNIFEM and the Microcredit Summit Campaign; and Galvanizing action - decent work for older women, under the responsibility of the Gender Promotion Programme in conjunction with the United Nations Programme on Ageing. The report on the ILO's contribution to Beijing+5 and its follow-up was prepared for and discussed at the 279th session of the Governing Body in November 2000. The Gender Equality Bureau also conducted a panel entitled From Beijing+5 to Copenhagen+5 during the United Nations Special Session on Copenhagen+5 (Geneva, 26 June-1 July 2000). The ILO Bureau of Workers' Activities has continued its work to strengthen women's involvement with and participation in trade unions.

61. ILO's Bureau for Employers' Activities, among other activities, supported a workshop for women entrepreneurs in Bialystok, Poland (November 2000). In the Syrian Arab Republic, it conducted a needs assessment of the Industrial Businesswomen's Committee at the Chamber of Industry in Damascus and conducted a strategic planning training workshop in November 2000.

The Bureau is preparing a publication entitled "From Principle to Practice - Let's Put Gender Equality in Place", based on the results of an employers' project promoting gender equality in Africa and Asia.

62. The InFocus Programme on Child Labour (IPEC) and the Gender Promotion Branch (GENPROM) are collaborating on projects in Bangladesh and Tanzania which explore the links between decent employment for women and the reduction of child labour. The projects involve research on characteristics of women's employment and working conditions, the kinds of support structures that positively or negatively affect child labour and on the manner in which women's socio-economic empowerment can improve family and child welfare. On a practical level, model schemes are also being tested.

63. As the Worst Forms of Child Labour Convention, 1999 (No.182) calls for measures to take account of the special situation of girls, gender mainstreaming is being implemented within the IPEC programme and steps have been taken to ensure that country programmes define gender equality as a main objective. To this end, during 2000, IPEC initiated a gender review of its programmes, both on the operational side, as well as the policy design, advocacy and implementation.

64. ILO has developed a database containing information on national laws and policies and measures of the corporate sector for promoting equality of opportunity and treatment for women and men in employment and occupation. The database is to act as an easily accessible source of information for academic research and for government and non-governmental organizations and companies seeking to develop or strengthen their own policies and practices.¹⁴

65. The Government Administration and Labour Law Department has taken a three-pronged approach to the elimination of discrimination in employment, focusing on: labour law formulation and reform, research, and labour administration audits and projects. In the technical advice and comparative labour law expertise given to member States, the Department consistently uses the Declaration and the core conventions on equality as reference points. Conventions Nos. 100 and 111 and the Workers with Family Responsibilities Convention, 1981 (No. 156) are used for definitional purposes (especially for "equal pay" and "discrimination in opportunity and treatment"), and as models for the drafting of substantive provisions in this area. Increasingly, sections on affirmative action for certain groups disadvantaged in employment, and sexual harassment provisions, are also requested for inclusion in drafts.

66. The Freedom of Association Branch has recently focused on gender aspects of freedom of association for workers in export processing zones (EPZs), education and agriculture, as well as raising issues concerning the promotion of gender equality through collective bargaining. In this context, a national tripartite workshop on the implementation of Conventions Nos. 87 and 98 was held in Colombo from 18 to 21 January 2001, with a particular emphasis on the difficulties facing female workers in EPZs.

67. The ILO's Turin Training Centre conducted a number of interregional and regional activities promoting ILO standards on gender-related issues. Last year, the Centre organized numerous activities focused on the promotion of standards and the Declaration, which dealt with

the issues of discrimination and equality. Various activities were exclusively focused on equality issues, including seminars and training workshops in Brazil, Pakistan, Bosnia and Herzegovina and Albania, as well as in Geneva and Turin.

F. Migrant workers

68. The ILO's principal activities in regard to international migration for employment have consisted of four main approaches: (1) assisting countries in policy formulation, adopting legislation and strengthening legislation for effective management of labour migration; (2) strengthening knowledge and statistics to improve the monitoring of migration flows and their impact; (3) promoting the adoption of ILO standards and implementing programmes to protect the rights and dignity of migrant workers; and (4) fostering cooperation in combating discrimination, abuse, exploitation and trafficking of migrants.

69. The situation of migrant workers remains a matter of concern, particularly in countries that have not yet ratified either of the relevant ILO conventions and where national legislation and practice are often far from consistent with ILO principles.

70. The ILO has responded to several new or ongoing requests for technical assistance and specialized advice on the formulation of national migration policies and programmes and the promotion of new national frameworks for the prevention of discrimination against migrant workers. With ILO support, significant steps have been taken by several countries, notably Costa Rica, Indonesia, the Republic of Korea, Spain, Sweden and Tajikistan, to adopt policies or enact new legislation based on ILO principles and guidelines for protection and welfare of migrant workers. The ILO has cooperated extensively with the International Migration Policy Programme in providing training to senior government migration officials in Central Asia and the Caucuses, Eastern Europe and Southern Africa, particularly regarding issues of protection of human and labour rights of migrant workers. In order to promote recognition of contributions by migrant workers to their host and home countries, the Office helped initiate a recommendation adopted last year by the Commission on Human Rights which led to the proclamation of 18 December as International Migrants Day by the United Nations General Assembly.

71. During 2000, the work of the International Migration Branch in documenting and identifying remedies for discrimination in employment against migrant and ethnic minority workers has been reviewed and strengthened. A tripartite High-Level Meeting on Achieving Equality in Employment for Migrant Workers (Geneva, 8-11 March 2000) was held to assess the seven-year ILO project "Combating discrimination against migrant and ethnic minority workers" conducted in Belgium, Canada, Denmark, Finland, France, Germany, Italy, the Netherlands, Spain, Sweden, the United Kingdom and the United States. A report of the meeting contains various new directions and initiatives for continuing ILO work aimed at reducing discrimination against, and promoting equality of opportunity for, migrant and immigrant workers. A follow-up activity is under way to compile an international compendium of profiles of "best practice" measures and activities found to be effective in combating discrimination.

72. Joint research efforts to identify and disseminate good practice remedies for discrimination have been initiated by the Office in cooperation with a research institute in Ireland and with the Council of Europe Expert Working Group on Integration. ILO participated

in a national conference, Ireland - Racist or Multicultural, organized by the Irish Congress of Trade Unions in Dublin (September 2000), at the annual conference of the European Research Forum on Migration and Ethnic Relations held in Brussels (November 2000) and at the seminar on Addressing Discrimination in Employment in Flanders, organized by the Office of the Minister of Labour of Flanders (region), Belgium (December 2000). Experience and policy recommendations resulting from this ILO activity are contributing to the preparation process for the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to be held in Durban from 31 August to 7 September 2001.

G. Indigenous and tribal peoples

73. With regard to the application of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Committee of Experts noted recently that this was the most comprehensive instrument of international law for the protection in law and in practice of the right of indigenous and tribal peoples to preserve their own laws and customs within the national societies in which they live. The Committee pointed out that Convention No. 169 establishes minimum rights which must be respected and put into practice by the States which ratify it, with a view to the protection of the 300 million members of indigenous and tribal peoples acknowledged to exist around the world. The application of the Convention is extremely complex and may have a profound impact which may go even to the heart of the constitutional order of ratifying States. Its ratification may imply the adoption of new national standards or the adaptation of existing standards to define under the Convention a new relation between Governments and national societies and indigenous and tribal peoples.

74. The Committee of Experts also stressed that one of the fundamental precepts of this Convention is that a relationship of respect should be established between indigenous and tribal peoples and the States in which they live, a concept which should not be confused with autonomy or political and territorial independence from the nation State. It is important to note that the Convention has had a great influence in many countries, even before its ratification. For example, it served as a point of reference for the conclusion of a peace agreement and the signing of a specific accord on the dignity and rights of the indigenous peoples of Guatemala. It has also helped to orient, or to serve as a point of reference, for discussions on the situation of indigenous and tribal peoples in other countries. Finally, the Convention has also had a significant impact on other instruments of international law and in other international organizations, in particular in the discussion in the Commission on Human Rights of a draft declaration of indigenous rights and, in the Americas, in the discussion of a new instrument on indigenous rights by the Organization of American States.

75. Another important point is that the Convention has served as guidance for a number of decisions of several supreme courts in the Americas. This has illustrated the capacity of the Convention to influence the positive law of these countries and to help modify the relations of power in the political dialogue between the indigenous and tribal peoples and national Governments. The fact of several recent representations under article 24 of the ILO Constitution alleging non-observance of the Convention by member States demonstrates an increasing tendency for the Convention to be a valuable instrument for the protection of the rights of these peoples. The principles contained in the Convention may also serve as a common ground for the

future work of the newly established Permanent Forum on Indigenous Issues. The ILO cooperates closely with Office of the High Commissioner for Human Rights and relevant agencies and organizations with a view to supporting the initial phase of the Permanent Forum.

76. A significant development that has taken place recently has been the creation of an internal Task Force on Indigenous and Tribal Peoples - the first of its kind to be established within the ILO. This Task Force is intended to increase cooperation and coordination among various sectors of the ILO whose work is related - either directly or indirectly - to indigenous and tribal peoples. The Task Force will enable the ILO to address more effectively questions concerning indigenous and tribal peoples, and to coordinate its programmes and projects to ensure that their needs and priorities are fully acknowledged.

77. Traditionally, most ILO work on this subject has been carried out in Latin America, but in recent years it has expanded into both Africa and Asia. The technical cooperation project financed by the Danish International Development Agency (DANIDA), set up to promote ILO policy on indigenous and tribal peoples within the framework of ILO Conventions Nos. 107 and 169, continued its activities at the country, subregional and international levels.

78. During 2000, the Interregional Programme to Support Self-Reliance of Indigenous and Tribal Communities through Cooperatives and Self-Help Organizations (INDISCO) continued its work on projects in the Central African region, Tanzania, the Philippines, India, the Lao People's Democratic Republic, Viet Nam and Belize. The Programme seeks to empower indigenous and tribal peoples through assisting their own community-based organizations. In a wide range of fields, including traditional livelihoods, ancestral domains and education, INDISCO has assisted indigenous and tribal peoples to counter discrimination. In the Philippines, indigenous communities are being supported to organize themselves and to claim titles for their ancestral domains and their right to continue practising and strengthening their traditional livelihoods. In the Indian States of Gujarat, Bihar and Orissa, tribal self-help groups have been empowered to strengthen livelihood activities, halt out-migration and claim their rights to development. Marginalized for centuries, women's groups and self-help organizations have escaped from debt bondage and regained their rights to traditional resources and control over their own futures. Innovative research addressing the unique needs and circumstances of tribal peoples in crisis situations, such as droughts and floods, was also initiated. In northern Thailand, eliminating discrimination against tribal children has become a priority issue and activities supported local curriculum development on indigenous knowledge systems and practices for hill-tribe children as well as the organization of a workshop exploring how to incorporate local curricula into the education system for the training of tribal children.

79. In the Americas, due to the ratification of Convention No. 169 by Argentina, the Buenos Aires Area Office supported the carrying out of Two Forums of Original Nations (Jornadas de las Naciones Originarias) (Buenos Aires, December 2000), organized by various indigenous communities to promote the rights of indigenous peoples. The Multidisciplinary Advisory Team in Santiago conducted three seminars on Convention No. 169 with the Provisional National Committee for the Self-Determination of Indigenous Peoples in Chile and for the Ratification of ILO Convention No. 169 (October-November 2000). The seminars were attended by approximately 50 participants per session, from the Mapuche and Rapa-Nui indigenous communities.

80. The ILO further launched its project promoting the Legal Empowerment of Indigenous Peoples in Central America and Panama, financed by the United Nations Fund for International Partnerships (UNFIP). The objective of this three-year project is to increase the ability of indigenous peoples and organizations representing them to defend their rights within the framework of their national legal systems. In Guatemala, the ILO conducted a series of consultations with the Canadian-based Centre for Human Rights and Democratic Development and the Coordinating Body for the Mayan Organizations of Guatemala (COPMAGUA) on the content and scope of an inter-American instrument on the rights of indigenous peoples, which is modelled on Convention No. 169. In Honduras, the Multidisciplinary Advisory Team conducted a legal capacity-building workshop for indigenous (Tolupanes) women and men from 24 indigenous communities (May 2000). In El Salvador, two local workshops to disseminate information on Conventions No. 169 and No. 107 were supported. In Panama, the MDT continued to provide technical assistance at the request of the President of the Legislative Assembly, to support the possible ratification of Convention No. 169 by Panama. The ILO, together with the World Bank, organized the Third Inter-Agency meeting on Indigenous Peoples (San José, 24-26 May 2000). In Mexico, a seminar on the application of Convention No. 169 is taking place at the Government's request in July 2001.

H. Workers with disabilities

81. An estimated 386 million of the world's working-age people are disabled. These people have the potential to make a valuable contribution in the workforce, as employees, entrepreneurs or employers of others. Some employers have started to tap this potential. Many Governments have introduced legislation, policies and programmes to promote employment opportunities for job-seekers with disabilities, job retention by people who acquire a disability while in employment, and return to work by those who have left their jobs due to their disability.

82. But many disabled people who are willing and able to work are unemployed - as many as 80 per cent in some countries - frequently because employers assume that people with disabilities are unable to work. Often, that is because people with disabilities have not had access to education or training in employable skills, or because the support services they require are not available, or because of unsupportive legislation and policies; sometimes, it is because buildings or transportation is inaccessible to them. These and other obstacles stand in the way of disabled people finding a job which will enable them to earn their own living, support their families and contribute to the national economy. The resulting loss is felt at every level, not only by disabled people themselves and their families, but also by employers and the wider society.

83. The ILO's objectives include the promotion of equal opportunity and treatment in employment and occupation for persons with disabilities, particularly the promotion of vocational training and employment generation to enable disabled persons to enter the labour market.¹⁵ In 2000, a draft Code of Practice on Managing Disability in the Workplace was finalized and circulated to constituents for comment. It will be discussed at a Tripartite Meeting of Experts in October 2001.

84. A number of activities relating to the promotion of equal employment opportunities for people with mental health difficulties took place during the reporting period. A symposium on Mental Health and Work, organized jointly by the ILO, WHO and the World Federation of

Mental Health, was held at ILO headquarters in Geneva to mark World Mental Health Day on 10 October 2000. The symposium followed a two-day Global Congress on Mental Health in the Workplace: Workplace Productivity, Well-being, Rehabilitation and Risk Management, organized by World Strategic Partners and hosted by the ILO (9-10 October 2000, Geneva). Also on World Mental Health Day, the ILO launched a series of reports arising from its studies of mental health at the workplace in five countries (Finland, Germany, Poland, the United Kingdom and the United States). These studies, carried out in 1999 and 2000, focused on policies, programmes and employer practices that help contain disability costs and promote mental health, particularly in relation to depression, which has been identified by WHO as a leading cause of mental disability. A joint WHO-ILO monograph entitled "Mental Health and Work: Impact, Issues and Good Practices" was also launched on 10 October 2000. These publications were distributed at the United Nations observance of World Mental Health Day in New York on 12 October 2000. A number of activities have also been carried out in ILO member States.

I. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

85. Given the specific mandate and experience of the ILO as regards non-discrimination in employment and occupation, the situation of migrant workers and indigenous and tribal peoples, the Office has taken an active part in the preparations for the World Conference. In his message on the occasion of the International Day against Racism on 21 March 2001, the Director-General set out the ILO's aim of promoting awareness of the importance of combating and eradicating racism, racial discrimination, xenophobia and related forms of intolerance in and through work. Also, economic and social effects of such discrimination, including poverty, exclusion and marginalization, need to be addressed. The ILO further emphasizes the importance of promoting and observing relevant ILO standards, including the 1998 Declaration on Fundamental Principles and Rights at Work, which includes the principle of non-discrimination. The ILO underlined the need to take specific steps to protect migrant workers and indigenous peoples from racism, racial discrimination and xenophobia. As regards child labour, the ILO stresses the linkage among poverty, racism and related intolerance, and child labour practices. Another crucial issue is the involvement and participation of employers and workers in the development and implementation of non-discrimination policies and programmes, including at the enterprise level. Education and training as a measure of prevention is as important as is establishing and strengthening institutions, procedures and other remedial action for victims of racism, racial discrimination, xenophobia and related intolerance in the world of work.

86. The ILO has participated in all the regional preparatory meetings, the expert seminars convened by the United Nations High Commissioner for Human Rights and the two sessions of the Preparatory Committee held so far in 2000 and 2001 respectively, as well as other events. Involvement in the Commission on Human Rights and the General Assembly under the relevant agenda items was used to draw attention to issues of concern to ILO, including through the submission of reports.¹⁶ The ILO has provided concrete suggestions for the draft declaration and programme of action to be adopted by the World Conference, which have been taken up in the elements for such a document provided by the World Conference secretariat. The ILO continues to follow actively the process of negotiation regarding the final documents. It works closely with interested delegations, other international organizations, and the International Confederation

of Free Trade Unions (ICFTU) and other non-governmental organizations. A joint lobbying effort with IOM and UNHCR has been made as regards migration and refugee concerns. The Office is also undertaking several studies and projects, which are intended to contribute positively to the process. An intersectoral task force on the World Conference has been established in the Office. The ILO Governing Body decided that the organization will be represented in Durban by a high-level tripartite delegation.

87. The Office cooperates closely with the Office of the High Commissioner for Human Rights in preparing for the Conference. This includes the joint organization of a series of panels on racism in the world of work. A first panel discussion, hosted by the High Commissioner for Human Rights, Mary Robinson, and the Director-General of the ILO, Juan Somavia, was held on 30 May 2001 during the second session of the Preparatory Committee. The purpose of the panel was to draw attention to manifestations of discrimination in the workplace, examples of problems this raises and various ways in which they can be addressed, including at the enterprise level. The panel was intended to lead up to a subsequent panel to be held during the World Conference in Durban wherein it is hoped to gain commitments of Chief Executive Officers within the Global Compact to the elimination of discrimination and the promotion of equality and diversity with dignity in the workplace. A further panel will focus on policies and activities at the enterprise level to combat discrimination and promote equality and diversity.

Notes

¹ International Labour Office, *Stopping Forced Labour, Global Report under the Follow-up to the Declaration on Fundamental Principles and Rights at Work, 2001*. The report may also be consulted on the ILO Internet site (<http://www.ilo.org/declaration>).

² International Labour Conference, 89th session, 2001: Report V (1): Promotion of cooperatives.

³ Including: the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Equal Remuneration Convention, 1951 (No. 100), the Minimum Age Convention, 1973 (No. 138), the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Indigenous and Tribal Populations Convention, 1957 (No. 107) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Workers with Family Responsibilities Convention, 1975 (No. 156), and the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).

⁴ The last report, as contained in document E/CN.4/Sub.2/1999/24, indicated ratifications as of 8 July 1999.

⁵ International Labour Conference, 89th session, 2001: Report III (Part 1A): Report of the Committee of Experts on the Application of Conventions and Recommendations, paras. 82-146.

⁶ ILO Governing Body, Working Party on the Social Dimensions of Globalization, November 2000, GB.279/WP/SDG/2.

⁷ ILO Governing Body, Working Party on the Social Dimensions of Globalization, June 2001, GB.281/WP/SDG/1.

⁸ International Labour Conference, 89th session, 2001: Report VI: Social security: issues, challenges and prospects.

⁹ International Labour Office, Seventh survey on the effect given to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, Part I: Analytic report of the working group on the reports submitted by Governments and by employers' and workers' organizations, Part II: Summary of reports submitted by Governments and by employers' and workers' organizations, 2001. Further information on this issue see <http://www.ilo.org/public/english/employment/multi/tridecl/index.htm>.

¹⁰ International Labour Conference, 89th session, 2001: Report III (Part 1 A): Report of the Committee of Experts on the Application of Conventions and Recommendations. Copies of the Committee's annual report are regularly furnished to the Office of the High Commissioner for Human Rights and are available on request for members of the Sub-Commission. The ILOLEX Database, which can be accessed through ILO's Web site (www.ilo.org) is a useful tool to consult the observations of the Committee of Experts.

¹¹ The countries concerned were Colombia, Ecuador, Denmark.

¹² The Code of Practice is available on the Internet Web site of the ILO Programme on HIV/AIDS and World of Work, <http://mirror/public/english/protection/trav/aids/index.htm>.

¹³ International Labour Conference, 89th session, 2001: Report III (Part 1 A): Report of the Director-General - Appendix: Report on the situation of workers of the occupied Arab territories.

¹⁴ See <http://mirror/public/english/employment/gems/eco/index.htm>.

¹⁵ See <http://mirror/public/english/employment/skills/disability/diswork.htm>.

¹⁶ For the most recent report on the issues of non-discrimination and the World Conference see E/CN.4/2001/22.

ANNEX

Ratification of ILO Conventions relevant to the concerns of the Sub-Commission

<u>Convention</u>	<u>Total ratifications</u>	<u>Since last report^a</u>
<u>Forced Labour</u>		
No. 29	158	Eritrea, Gambia, Kazakhstan, Malawi, Republic of Moldova, Namibia, Rwanda, Yugoslavia
No. 105	154	Azerbaijan, Bosnia and Herzegovina, Cambodia, Congo, Eritrea, Gambia, India, Kazakhstan, Malawi, Namibia, Saint Kitts and Nevis, Tajikistan, Togo, Ukraine
<u>Discrimination</u>		
No. 100	153	Bahamas, Cambodia, Congo, El Salvador, Gambia, Kazakhstan, Kenya, Republic of Moldova, Papua New Guinea, Saint Kitts and Nevis, Seychelles, South Africa, Yugoslavia
No. 111	149	Bahamas, Bahrain, Cambodia, Congo, Eritrea, Gambia, Kazakhstan, Luxembourg, Papua New Guinea, Saint Kitts and Nevis, Seychelles, Yugoslavia
No. 156	33	El Salvador, Iceland, Republic of Korea, Ukraine, Yugoslavia
<u>Freedom of Association</u>		
No. 87	136	Angola, Bahamas, Cambodia, Eritrea, Gambia, Georgia, Kazakhstan, Libyan Arab Jamahiriya, Malawi, Papua New Guinea, Saint Kitts and Nevis, United Republic of Tanzania, Yugoslavia
No. 98	149	Cambodia, Congo, Eritrea, Gambia, Kazakhstan, Saint Kitts and Nevis, Seychelles, Switzerland, Yugoslavia
<u>Migrant Workers</u>		
No. 97	41	-
No. 143	18	-

^a The last report indicated ratifications as of 8 July 1999.

<u>Convention</u>	<u>Total ratifications</u>	<u>Since last report^a</u>
<u>Indigenous and Tribal Peoples</u>		
No. 107	27	No longer open for ratification
No. 169	14	Argentina
<u>Minimum Age</u>		
No. 138	109	Angola, Austria, Barbados, Belize, Benin, Burundi, Cambodia, Central African Republic, Colombia, Congo, Ecuador, Eritrea, Gambia, Iceland, Japan, Kazakhstan, Kuwait, Madagascar, Malawi, Republic of Moldova, Morocco, Namibia, Panama, Papua New Guinea, Senegal, Seychelles, South Africa, Sri Lanka, Switzerland, United Kingdom, Yemen, Yugoslavia, Zimbabwe
No. 182	82	Angola, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Brazil, Bulgaria, Canada, Central African Republic, Chad, Chile, Cyprus, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Finland, Gabon, Ghana, Guyana, Hungary, Iceland, Indonesia, Ireland, Italy, Japan, Jordan, Kenya, Republic of Korea, Kuwait, Libyan Arab Jamahiriya, Luxembourg, Malawi, Malaysia, Mali, Malta, Mauritius, Mexico, Mongolia, Morocco, Namibia, New Zealand, Nicaragua, Niger, Norway, Oman, Panama, Papua New Guinea, Paraguay, Philippines, Portugal, Qatar, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, San Marino, Senegal, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Togo, Ukraine, United Kingdom, United States, Viet Nam, Yemen, Zimbabwe
<u>Vocational Rehabilitation</u>		
No. 159	73	Côte d'Ivoire, Italy, Republic of Korea, Lebanon, Luxembourg, Mexico, Turkey, Yugoslavia
